

# SENATE BILL No. 947

December 5, 2007, Introduced by Senator PATTERSON and referred to the Committee on Energy Policy and Public Utilities.

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; 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 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 provide for a restructuring of the manner in which energy is provided in this state; 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 section 10q (MCL 460.10q), as added by 2000 PA 141, and by adding sections 10dd, 10ee, 10ff, and 11; and to repeal acts and

parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 10q. (1) A person shall not engage in the business of an  
2 alternative electric supplier in this state unless the person  
3 obtains and maintains a license issued under section 10a.

4           (2) In addition to any other information required by the  
5 commission in connection with a licensing application, the  
6 applicant shall be required to do both of the following:

7           (a) Provide information, including information as to the  
8 applicant's safety record and its history of service quality and  
9 reliability, as to the applicant's technical ability, as defined  
10 under regulations of the commission, to safely and reliably  
11 generate or otherwise obtain and deliver electricity and provide  
12 any other proposed services.

13           (b) Demonstrate that the employees of the applicant that will  
14 be installing, operating, and maintaining generation or  
15 transmission facilities within this state, or any entity with which  
16 the applicant has contracted to perform those functions within this  
17 state, have the requisite knowledge, skills, and competence to  
18 perform those functions in a safe and responsible manner in order  
19 to provide safe and reliable service.

20           (3) The commission shall order the applicant to post a bond or  
21 provide a letter of credit or other financial guarantee in a  
22 reasonable amount established by the commission of not less than  
23 \$40,000.00, if the commission finds after an investigation and  
24 review that the requirement of a bond would be in the public  
25 interest.

1           (4) Only investor-owned, cooperative, or municipal electric  
2 utilities shall own, construct, or operate electric distribution  
3 facilities or electric meter equipment used in the distribution of  
4 electricity in this state. This subsection does not prohibit a  
5 self-service power provider from owning, constructing, or operating  
6 electric distribution facilities or electric metering equipment for  
7 the sole purpose of providing or utilizing self-service power. This  
8 act does not affect the current rights, if any, of a nonutility to  
9 construct or operate a private distribution system on private  
10 property or private easements. This does not preclude crossing of  
11 public rights-of-way.

12           (5) The commission shall not prohibit an electric utility from  
13 metering and billing its customers for services provided by the  
14 electric utility.

15           **(6) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY**  
16 **ACT THAT ADDED THIS SUBSECTION, THE COMMISSION SHALL ESTABLISH**  
17 **ELECTRIC SUPPLY RELIABILITY STANDARDS THAT ARE APPLICABLE TO ALL**  
18 **ELECTRIC UTILITIES AND ALTERNATIVE ELECTRIC SUPPLIERS WHO PROVIDE**  
19 **ELECTRIC SUPPLY TO RETAIL CUSTOMERS IN THIS STATE. THE COMMISSION**  
20 **SHALL REQUIRE EACH ELECTRIC UTILITY AND ALTERNATIVE ELECTRIC**  
21 **SUPPLIER TO FILE ANNUALLY WITH THE COMMISSION AN ELECTRIC SUPPLY**  
22 **PLAN TO DEMONSTRATE THAT IT IS IN COMPLIANCE WITH THE ELECTRIC**  
23 **SUPPLY RELIABILITY STANDARDS. THE COMMISSION SHALL ANNUALLY VERIFY**  
24 **THE ADEQUACY OF THE ELECTRIC SUPPLY PLAN OF EACH ELECTRIC UTILITY**  
25 **AND ALTERNATIVE ELECTRIC SUPPLIER TO ASSURE THAT EACH PLAN MEETS**  
26 **THE MINIMUM ELECTRIC SUPPLY RELIABILITY STANDARDS. THE ELECTRIC**  
27 **SUPPLY RELIABILITY STANDARDS SHALL BE UNIFORMLY APPLIED TO ELECTRIC**

1 UTILITIES AND ALTERNATIVE ELECTRIC SUPPLIERS, AND SHALL INCLUDE,  
2 BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

3 (A) THAT THE ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER  
4 MAINTAIN A MINIMUM 15% PLANNING RESERVE MARGIN OVER AND ABOVE ITS  
5 FORECASTED PEAK LOAD DEMAND.

6 (B) THAT THE PLANNING RESERVE MARGIN REQUIREMENT BE FOR A  
7 MINIMUM OF 5 YEARS.

8 (C) THAT EACH ELECTRIC UTILITY AND ALTERNATIVE ELECTRIC  
9 SUPPLIER MEET ITS TOTAL ELECTRIC SUPPLY RESOURCE REQUIREMENTS  
10 THROUGH SELF-SUPPLY AND CONTRACTS TO PURCHASE GENERATION SUPPLY.  
11 UNTIL THE COMMISSION DETERMINES THAT A PROPER ELECTRIC CAPACITY  
12 MARKET EXISTS IN THIS STATE OR REGION, ELECTRIC SUPPLY RESOURCES  
13 SHALL BE TIED TO PHYSICAL GENERATING ASSETS, WHETHER THROUGH  
14 OWNERSHIP OR CONTRACTS. IF THE ELECTRIC SUPPLY RESOURCES ARE TIED  
15 TO PHYSICAL GENERATING ASSETS BY CONTRACT, THE CONTRACTED OUTPUT OF  
16 THE ASSETS SHALL BE SOLELY DEDICATED TO THE LOAD SERVING ENTITY AND  
17 MEET THE STANDARDS OF SUBDIVISION (D).

18 (D) THAT THE ELECTRIC SUPPLY RESOURCES OF THE ELECTRIC UTILITY  
19 OR ALTERNATIVE ELECTRIC SUPPLIER SHALL BE REQUIRED TO SATISFY  
20 DELIVERABILITY STANDARDS ESTABLISHED BY THE COMMISSION TO ENSURE  
21 THAT THE SUPPLY RESOURCES ARE CAPABLE OF BEING DELIVERED TO THE  
22 LOAD SERVING ENTITY'S RETAIL CUSTOMERS WITHOUT JEOPARDIZING SUPPLY  
23 RELIABILITY.

24 (E) THAT THE ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER  
25 MAY UTILIZE DIRECT LOAD CONTROL OPTIONS AS A MEANS OF SATISFYING  
26 THE MINIMUM PLANNING RESERVE MARGIN REQUIREMENTS TO THE EXTENT THAT  
27 THE DIRECT LOAD CONTROL OPTIONS MEET APPLICABLE REGIONAL ELECTRIC

1 UTILITY RESERVE STANDARDS.

2 (F) THAT THE ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER  
3 SHALL HAVE ENTERED INTO ALL ELECTRIC SUPPLY RESOURCE COMMITMENTS  
4 BEFORE JANUARY 1 FOR THAT YEAR'S PEAK LOAD PERIOD. AS USED IN THIS  
5 SUBPARAGRAPH, "PEAK LOAD PERIOD" MEANS THE MONTHS OF JUNE, JULY,  
6 AND AUGUST.

7 SEC. 10DD. (1) AS USED IN THIS SECTION:

8 (A) "BIOMASS" MEANS ANY ORGANIC MATTER THAT CAN BE CONVERTED  
9 TO USABLE FUEL FOR THE PRODUCTION OF ENERGY AND IS AVAILABLE ON A  
10 RENEWABLE BASIS, INCLUDING, BUT NOT LIMITED TO, ALL OF THE  
11 FOLLOWING:

12 (i) AGRICULTURAL CROPS AND CROP WASTES.

13 (ii) WOOD AND WOOD WASTES, INCLUDING WOOD AND WOOD WASTE FROM  
14 WOOD PRODUCT AND PAPER PROCESSING.

15 (iii) ANIMAL WASTES.

16 (iv) MUNICIPAL WASTEWATER SLUDGE.

17 (v) AQUATIC PLANTS.

18 (vi) FOOD PRODUCTION AND PROCESSING WASTE.

19 (vii) MUNICIPAL SOLID WASTE.

20 (B) "INSTALLED CAPACITY" MEANS THE TOTAL AMOUNT OF ELECTRICITY  
21 A RENEWABLE ENERGY SYSTEM CAN GENERATE IN 1 HOUR AT FULL LOAD.

22 (C) "PORTFOLIO STANDARD" IS THE REQUIRED MINIMUM PERCENTAGE OF  
23 A PROVIDER'S TOTAL ANNUAL RETAIL KILOWATT HOUR ELECTRICITY SALES IN  
24 THIS STATE THAT IS COMPOSED OF ELECTRICITY PRODUCED FROM A  
25 RENEWABLE ENERGY SYSTEM.

26 (D) "PROVIDER" MEANS ANY PERSON THAT IS IN THE BUSINESS OF  
27 SELLING ELECTRICITY TO RETAIL CUSTOMERS IN THIS STATE. FOR THE

1 PURPOSES OF THIS SECTION, PROVIDER MEANS ANY OF THE FOLLOWING:

2 (i) ANY PERSON OR ENTITY THAT IS REGULATED BY THE COMMISSION  
3 FOR THE PURPOSE OF SELLING ELECTRICITY TO RETAIL CUSTOMERS.

4 (ii) A MUNICIPAL ELECTRIC PROVIDER.

5 (iii) A COOPERATIVE ELECTRIC PROVIDER.

6 (iv) AN ALTERNATIVE ELECTRIC SUPPLIER.

7 (v) AN INDEPENDENT INVESTOR-OWNED ELECTRIC UTILITY.

8 (E) "RENEWABLE ENERGY CONTRACT" MEANS A CONTRACT TO ACQUIRE  
9 ELECTRICITY AND THE ASSOCIATED RENEWABLE ENERGY CREDITS FROM 1 OR  
10 MORE RENEWABLE ENERGY SYSTEMS.

11 (F) "RENEWABLE ENERGY CREDIT" MEANS A CERTIFIED CREDIT UNDER  
12 THIS SECTION EQUAL TO 1 MEGAWATT HOUR OF GENERATED RENEWABLE  
13 ENERGY.

14 (G) "RENEWABLE ENERGY FUEL" MEANS ANY OF THE FOLLOWING:

15 (i) BIOMASS.

16 (ii) GEOTHERMAL.

17 (iii) SOLAR.

18 (iv) WIND.

19 (v) HYDROELECTRIC, EXCEPT FOR PUMP STORAGE SYSTEMS.

20 (vi) GAS CAPTURED FROM THE DECOMPOSITION OF WASTE.

21 (vii) THAT PORTION OF A FUEL MIXTURE THAT IS A BIOMASS FUEL.

22 (H) "RENEWABLE ENERGY SYSTEM" MEANS A FACILITY, ELECTRICITY  
23 GENERATION SYSTEM, OR INTEGRATED SET OF ELECTRICITY GENERATION  
24 SYSTEMS THAT USE RENEWABLE ENERGY FUEL.

25 (I) "TERMS AND CONDITIONS" INCLUDES THE PRICE THAT A PROVIDER  
26 OF ELECTRIC SERVICE IS TO PAY TO ACQUIRE ELECTRICITY AND THE  
27 ASSOCIATED RENEWABLE ENERGY CREDITS UNDER A RENEWABLE ENERGY

1 CONTRACT ALONG WITH OTHER CONTRACT PROVISIONS.

2 (2) EACH PROVIDER SHALL ON AN ANNUAL BASIS ESTABLISH A  
3 PORTFOLIO STANDARD FOR RENEWABLE ENERGY. THE PROVIDER SHALL  
4 ANNUALLY FILE A REPORT WITH THE COMMISSION REGARDING THE STATUS OF  
5 THE PROVIDER IN MEETING THE PORTFOLIO STANDARD ESTABLISHED UNDER  
6 THIS SECTION. THE PORTFOLIO STANDARD SHALL REQUIRE THE PROVIDER TO  
7 GENERATE OR ACQUIRE ELECTRICITY FROM RENEWABLE ENERGY SYSTEMS, FOR  
8 SALE TO RETAIL CUSTOMERS IN THIS STATE, OR ACQUIRE EQUIVALENT  
9 RENEWABLE ENERGY CREDITS, IN THE FOLLOWING AMOUNTS:

10 (A) FOR THE PERIOD OF JANUARY 1, 2008 TO DECEMBER 31, 2008,  
11 NOT LESS THAN 3% OF THE TOTAL AMOUNT OF KILOWATT HOURS OF  
12 ELECTRICITY SOLD BY THE PROVIDER TO ITS RETAIL CUSTOMERS IN THIS  
13 STATE DURING THE CALENDAR YEAR.

14 (B) FOR THE PERIOD OF JANUARY 1, 2009 TO DECEMBER 31, 2010,  
15 NOT LESS THAN 5% OF THE TOTAL AMOUNT OF KILOWATT HOURS OF  
16 ELECTRICITY SOLD BY THE PROVIDER TO ITS RETAIL CUSTOMERS IN THIS  
17 STATE DURING THE CALENDAR YEAR.

18 (C) FOR THE PERIOD OF JANUARY 1, 2011 TO DECEMBER 31, 2012,  
19 NOT LESS THAN 6% OF THE TOTAL AMOUNT OF KILOWATT HOURS OF  
20 ELECTRICITY SOLD BY THE PROVIDER TO ITS RETAIL CUSTOMERS IN THIS  
21 STATE DURING THE CALENDAR YEAR.

22 (D) FOR THE PERIOD OF JANUARY 1, 2013 TO DECEMBER 31, 2015,  
23 NOT LESS THAN 7% OF THE TOTAL AMOUNT OF KILOWATT HOURS OF  
24 ELECTRICITY SOLD BY THE PROVIDER TO ITS RETAIL CUSTOMERS IN THIS  
25 STATE DURING THE CALENDAR YEAR.

26 (E) AFTER DECEMBER 31, 2015, NOT LESS THAN 10% OF THE TOTAL  
27 AMOUNT OF KILOWATT HOURS OF ELECTRICITY SOLD BY THE PROVIDER TO ITS

1 RETAIL CUSTOMERS IN THIS STATE DURING EACH CALENDAR YEAR.

2 (3) THE COMMISSION MAY REQUIRE THAT NOT LESS THAN 20% OF THE  
3 TOTAL AMOUNT OF KILOWATT HOURS OF ELECTRICITY SOLD BY A PROVIDER TO  
4 ITS RETAIL CUSTOMERS IN THIS STATE BY 2025 BE GENERATED OR ACQUIRED  
5 FROM RENEWABLE ENERGY SYSTEMS.

6 (4) A PROVIDER MAY COMPLY WITH THE RENEWABLE ENERGY PORTFOLIO  
7 STANDARD REQUIRED IN THIS SECTION BY PRODUCING ELECTRIC ENERGY FROM  
8 RENEWABLE ENERGY SYSTEMS, BY PURCHASING POWER THROUGH A CONTRACT  
9 WITH ANOTHER ENTITY THAT PRODUCES ELECTRIC ENERGY FROM A RENEWABLE  
10 ENERGY SYSTEM, BY PURCHASING RENEWABLE ENERGY CREDITS, OR THROUGH  
11 PAYMENT OF ALTERNATE COMPLIANCE PAYMENTS.

12 (5) IF THE PROVIDER ACQUIRES ELECTRICITY AND THE ASSOCIATED  
13 RENEWABLE ENERGY CREDITS FROM A RENEWABLE ENERGY SYSTEM UNDER A  
14 RENEWABLE ENERGY CONTRACT, ENTERED INTO AFTER THE EFFECTIVE DATE OF  
15 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION SHALL  
16 DETERMINE WHETHER THE CONTRACT PROVIDES REASONABLE TERMS AND  
17 CONDITIONS.

18 (6) THE COMMISSION SHALL CONSIDER ALL COSTS REASONABLY AND  
19 PRUDENTLY INCURRED BY A REGULATED UTILITY IN MEETING THE  
20 REQUIREMENTS OF THIS ACT TO BE A COST OF SERVICE. THE COMMISSION  
21 SHALL DETERMINE THE MECHANISM FOR THE RECOVERY OF THOSE COSTS.

22 (7) THE COMMISSION SHALL ESTABLISH A SYSTEM OF RENEWABLE  
23 ENERGY CREDITS THAT CAN BE USED BY A PROVIDER TO COMPLY WITH ITS  
24 PORTFOLIO STANDARD. THE RENEWABLE ENERGY CREDIT PROGRAM SHALL  
25 INCLUDE THE FOLLOWING:

26 (A) RENEWABLE ENERGY SYSTEMS ELIGIBLE TO RECEIVE RENEWABLE  
27 ENERGY CREDITS ARE RENEWABLE ENERGY SYSTEMS WITHIN THIS STATE.



1 (B) A PROCESS TO CERTIFY ALL EXISTING AND NEW RENEWABLE ENERGY  
2 SYSTEMS OPERATING ON THE EFFECTIVE DATE OF THIS ACT AS ELIGIBLE TO  
3 RECEIVE RENEWABLE ENERGY CREDITS.

4 (C) A METHOD FOR THE TRANSFERABILITY OF CREDITS.

5 (D) FOR POWER PURCHASE AGREEMENTS THAT EXIST ON THE EFFECTIVE  
6 DATE OF THIS ACT, OWNERSHIP OF ANY RENEWABLE ENERGY CREDITS RESIDES  
7 WITH THE GENERATOR OF THE RENEWABLE ENERGY UNLESS THE OWNERSHIP OF  
8 THE RENEWABLE ENERGY CREDITS IS OTHERWISE STATED IN CONTRACT.

9 (8) THE COMMISSION SHALL ESTABLISH A CREDIT CERTIFICATION AND  
10 TRACKING PROGRAM. THE CERTIFICATION AND TRACKING PROGRAM MAY BE  
11 CONTRACTED TO AND PERFORMED BY A THIRD PARTY THROUGH A SYSTEM OF  
12 COMPETITIVE BIDDING. THE CREDIT CERTIFICATION AND TRACKING PROGRAM  
13 SHALL INCLUDE ALL OF THE FOLLOWING:

14 (A) CERTIFICATION THAT THE RENEWABLE ENERGY SYSTEM IS A  
15 QUALIFIED RENEWABLE ENERGY SYSTEM UNDER THIS ACT.

16 (B) CERTIFICATION THAT THE OPERATOR OF A RENEWABLE ENERGY  
17 SYSTEM IS IN COMPLIANCE WITH STATE AND FEDERAL LAW APPLICABLE TO  
18 THE OPERATION OF A RENEWABLE ENERGY SYSTEM AT THE TIME  
19 CERTIFICATION IS GRANTED.

20 (C) AFFIXING THE DATE THAT THE RENEWABLE ENERGY CREDIT IS  
21 VALID FOR TRANSFER UNDER THIS ACT.

22 (D) A METHOD FOR ENSURING THAT RENEWABLE ENERGY CREDITS TRADED  
23 AND SOLD UNDER THIS ACT ARE PROPERLY ACCOUNTED UNDER THIS ACT.

24 (9) IF A PROVIDER IS UNABLE TO COMPLY WITH ITS PORTFOLIO  
25 STANDARD THROUGH THE GENERATION OF RENEWABLE ENERGY CREDITS DERIVED  
26 FROM ITS OWN RENEWABLE ENERGY SYSTEMS, FROM ALTERNATIVE COMPLIANCE  
27 PAYMENTS UNDER SUBSECTION (13), OR FROM THE PURCHASE OF CERTIFIED

1 RENEWABLE ENERGY CREDITS, THE PROVIDER SHALL COMPLY BY ENTERING  
2 INTO 1 OR MORE RENEWABLE ENERGY CONTRACTS.

3 (10) RENEWABLE ENERGY CREDITS USED BY A PROVIDER TO COMPLY  
4 WITH ITS PORTFOLIO STANDARD ARE EXTINGUISHED UPON USE.

5 (11) RENEWABLE ENERGY CREDITS SHALL AUTOMATICALLY EXPIRE UPON  
6 THE DATE 3 YEARS AFTER THE ORIGINAL CERTIFICATION OF THE RENEWABLE  
7 ENERGY CREDIT.

8 (12) IF THE COMMISSION DETERMINES THAT THERE IS NOT OR WILL  
9 NOT BE A SUFFICIENT SUPPLY OF ELECTRICITY MADE AVAILABLE TO A  
10 PROVIDER UNDER RENEWABLE ENERGY CONTRACTS WITH JUST AND REASONABLE  
11 TERMS AND CONDITIONS, THE COMMISSION SHALL EXEMPT THE PROVIDER, FOR  
12 THAT CALENDAR YEAR, FROM THE REMAINING REQUIREMENTS OF ITS  
13 PORTFOLIO STANDARD OR FROM ANY APPROPRIATE PORTION OF THE STANDARD.

14 (13) THROUGH 2012, PROVIDERS MAY MAKE ALTERNATIVE COMPLIANCE  
15 PAYMENTS TO THE FUND CREATED IN SUBSECTION (24) TO SATISFY THE  
16 REQUIREMENTS UNDER SUBSECTION (2). AFTER 2012, PROVIDERS WITH  
17 100,000 OR FEWER RETAIL CUSTOMERS MAY MAKE ALTERNATIVE COMPLIANCE  
18 PAYMENTS INTO THE FUND CREATED IN SUBSECTION (24) TO SATISFY THE  
19 REQUIREMENTS UNDER SUBSECTION (2).

20 (14) THE COMMISSION SHALL ESTABLISH BIENNIALY THE RATE OF  
21 ALTERNATIVE COMPLIANCE PAYMENTS BASED ON THE COSTS OF PURCHASING  
22 RENEWABLE ENERGY CREDITS, GENERATING RENEWABLE ENERGY, OR OTHER  
23 FACTORS THAT THE COMMISSION CONSIDERS APPROPRIATE.

24 (15) THE COMMISSION MAY TREAT ALTERNATIVE COMPLIANCE PAYMENTS  
25 AS RECOVERABLE COSTS THAT MAY BE INCLUDED IN A REGULATED PROVIDER'S  
26 RETAIL ELECTRIC RATES.

27 (16) THE COMMISSION MAY ESTABLISH A SOLAR PILOT PROGRAM FOR 1

1 OR MORE ELECTRIC UTILITIES. THE SOLAR PROGRAM SHALL BE DESIGNED TO  
2 DETERMINE THE VALUE OF SOLAR ENERGY IN MEETING MICHIGAN'S ELECTRIC  
3 ENERGY NEEDS, INCLUDING PEAK DEMAND NEEDS, AND SHALL BE LIMITED TO  
4 50 MEGAWATTS OF ELECTRIC CAPACITY. THE COMMISSION SHALL ALLOW  
5 RECOVERY OF PRUDENT AND REASONABLE COSTS INCURRED BY PARTICIPATING  
6 ELECTRIC UTILITIES.

7 (17) EACH PROVIDER OF ELECTRIC SERVICE SHALL SUBMIT TO THE  
8 COMMISSION AN ANNUAL REPORT THAT PROVIDES INFORMATION RELATING TO  
9 THE ACTIONS TAKEN BY THE PROVIDER TO COMPLY WITH ITS PORTFOLIO  
10 STANDARD.

11 (18) EACH PROVIDER SHALL SUBMIT THE ANNUAL REPORT TO THE  
12 COMMISSION AFTER THE END OF EACH CALENDAR YEAR AND WITHIN THE TIME  
13 PRESCRIBED BY THE COMMISSION. THE REPORT SHALL BE SUBMITTED IN A  
14 FORMAT APPROVED BY THE COMMISSION.

15 (19) EACH ANNUAL REPORT SHALL INCLUDE ALL OF THE FOLLOWING  
16 INFORMATION:

17 (A) THE AMOUNT OF ELECTRICITY AND RENEWABLE ENERGY CREDITS  
18 THAT THE PROVIDER GENERATED OR ACQUIRED FROM RENEWABLE ENERGY  
19 SYSTEMS DURING THE REPORTING PERIOD AND THE AMOUNT OF RENEWABLE  
20 ENERGY CREDITS THAT THE PROVIDER ACQUIRED, SOLD, OR TRADED DURING  
21 THE REPORTING PERIOD TO COMPLY WITH ITS PORTFOLIO STANDARD.

22 (B) THE CAPACITY OF EACH RENEWABLE ENERGY SYSTEM OWNED,  
23 OPERATED, OR CONTROLLED BY THE PROVIDER, THE TOTAL AMOUNT OF  
24 ELECTRICITY GENERATED BY EACH SYSTEM DURING THE REPORTING PERIOD,  
25 AND THE PERCENTAGE OF THAT TOTAL AMOUNT THAT WAS GENERATED DIRECTLY  
26 FROM RENEWABLE ENERGY.

27 (C) WHETHER, DURING THE REPORTING PERIOD, THE PROVIDER BEGAN

1 CONSTRUCTION ON, ACQUIRED, OR PLACED INTO OPERATION ANY RENEWABLE  
2 ENERGY SYSTEM.

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

5 (20) THE COMMISSION SHALL FILE AN ANNUAL REPORT WITH THE  
6 LEGISLATURE THAT SUMMARIZES DATA COLLECTED UNDER THIS SECTION.

7 (21) IF A PROVIDER DOES NOT COMPLY WITH ITS PORTFOLIO STANDARD  
8 AS REQUIRED UNDER SECTION 2 AND THE COMMISSION HAS NOT EXEMPTED  
9 THAT PROVIDER UNDER SUBSECTION (12), THE COMMISSION SHALL IMPOSE ON  
10 THE PROVIDER A FINE OF NO MORE THAN \$50.00 FOR EACH MEGAWATT HOUR  
11 OF ELECTRICITY THAT THE PROVIDER DOES NOT GENERATE OR ACQUIRE FROM  
12 A RENEWABLE ENERGY SYSTEM DURING A CALENDAR YEAR IN VIOLATION OF  
13 ITS PORTFOLIO STANDARD.

14 (22) THE COMMISSION SHALL ANNUALLY ADJUST THE FINES THAT WILL  
15 BE IMPOSED FOR EACH CALENDAR YEAR USING THE PREVAILING CONSUMER  
16 PRICE INDEX FOR THE DETROIT REGION.

17 (23) IF THE COMMISSION IMPOSES A FINE UNDER SUBSECTION (21)  
18 AGAINST A REGULATED RATE PROVIDER, THEN ALL OF THE FOLLOWING APPLY:

19 (A) THE FINE IS NOT A COST OF SERVICE OF THE PROVIDER.

20 (B) THE PROVIDER SHALL NOT INCLUDE ANY PORTION OF THE FINE IN  
21 ANY APPLICATION FOR A RATE ADJUSTMENT OR RATE INCREASE.

22 (C) THE COMMISSION SHALL NOT ALLOW THE PROVIDER TO RECOVER ANY  
23 PORTION OF THE FINE FROM ITS RETAIL CUSTOMERS.

24 (D) MONEY RESULTING FROM ANY FINES IMPOSED ON A PROVIDER UNDER  
25 THIS SECTION SHALL BE DEPOSITED INTO THE RENEWABLE ENERGY FUND  
26 CREATED IN SUBSECTION (24).

27 (24) THE RENEWABLE ENERGY FUND IS HEREBY CREATED WITHIN THE

1 STATE TREASURY. MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR  
2 SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.  
3 THE COMMISSION SHALL EXPEND MONEY FROM THE FUND, UPON  
4 APPROPRIATION, TO PROMOTE AND GROW RENEWABLE ENERGY PROJECTS IN  
5 THIS STATE.

6 SEC. 10EE. (1) AS USED IN THIS SECTION:

7 (A) "CERTIFICATE" MEANS A CERTIFICATE OF NEED ISSUED FOR AN  
8 ELECTRIC GENERATION FACILITY UNDER THIS SECTION.

9 (B) "CONSTRUCTION" MEANS ANY SUBSTANTIAL ACTION TAKEN ON AN  
10 ELECTRIC GENERATION FACILITY CONSTITUTING PLACEMENT OR ERECTION OF  
11 THE FOUNDATIONS OR STRUCTURES SUPPORTING AN ELECTRIC GENERATION  
12 FACILITY. CONSTRUCTION DOES NOT INCLUDE PRECONSTRUCTION ACTIVITY OR  
13 ROUTINE MAINTENANCE OF AN EXISTING ELECTRIC GENERATION FACILITY.

14 (C) "ELECTRIC UTILITY" MEANS A PERSON, PARTNERSHIP,  
15 CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY WHOSE GENERATION OR  
16 TRANSMISSION OF ELECTRICITY THE COMMISSION REGULATES UNDER 1939 PA  
17 3, MCL 460.1 TO 460.10CC. ELECTRIC UTILITY DOES NOT INCLUDE A  
18 MUNICIPAL UTILITY.

19 (D) "MUNICIPALITY" MEANS A CITY, TOWNSHIP, OR VILLAGE.

20 (E) "PRECONSTRUCTION ACTIVITY" MEANS ANY ACTIVITY ON A  
21 PROPOSED ELECTRIC GENERATION FACILITY CONDUCTED BEFORE CONSTRUCTION  
22 BEGINS. PRECONSTRUCTION ACTIVITY INCLUDES SURVEYS, MEASUREMENTS,  
23 EXAMINATIONS, SOUNDINGS, BORINGS, SAMPLE-TAKING, OR OTHER TESTING  
24 PROCEDURES, PHOTOGRAPHY, APPRAISAL, OR TESTS OF SOIL, GROUNDWATER,  
25 STRUCTURES, OR OTHER MATERIALS IN OR ON THE REAL PROPERTY FOR  
26 CONTAMINATION.

27 (2) AN ELECTRIC UTILITY THAT SEEKS TO CONSTRUCT AN ELECTRIC

1 GENERATION FACILITY TO SERVE ITS CUSTOMERS MAY APPLY TO THE  
2 COMMISSION FOR A CERTIFICATE. THE COMMISSION SHALL NOT ISSUE A  
3 CERTIFICATE UNLESS A REQUESTING ELECTRIC UTILITY FILES AN  
4 INTEGRATED RESOURCE PLAN AND DEMONSTRATES A NEED FOR THE GENERATION  
5 FACILITY. IF THE COMMISSION ISSUES A CERTIFICATE TO AN ELECTRIC  
6 UTILITY, THE NEED FOR THE GENERATION FACILITY SHALL NOT BE USED AS  
7 THE BASIS FOR CHALLENGING THE COST RECOVERY OF THE ELECTRIC  
8 GENERATION FACILITY IN SUBSEQUENT RATE PROCEEDINGS.

9 (3) BEFORE APPLYING FOR A CERTIFICATE, A UTILITY SHALL  
10 SCHEDULE AND HOLD A PUBLIC MEETING IN THE MUNICIPALITY IN WHICH THE  
11 GENERATION FACILITY HAS BEEN PROPOSED. A PUBLIC MEETING HELD IN A  
12 TOWNSHIP SATISFIES THE REQUIREMENT THAT A PUBLIC MEETING BE HELD IN  
13 EACH AFFECTED VILLAGE LOCATED WITHIN THE TOWNSHIP.

14 (4) UPON APPLYING FOR A CERTIFICATE, AN ELECTRIC UTILITY SHALL  
15 GIVE PUBLIC NOTICE IN THE MANNER AND FORM THE COMMISSION PRESCRIBES  
16 OF AN OPPORTUNITY TO COMMENT ON THE APPLICATION. NOTICE SHALL BE  
17 PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE UTILITY'S  
18 SERVICE AREA WITHIN A REASONABLE TIME PERIOD AFTER AN APPLICATION  
19 IS PROVIDED TO THE COMMISSION AND SHALL BE SENT TO EACH AFFECTED  
20 MUNICIPALITY AND EACH AFFECTED LANDOWNER WITHIN 1,000 FEET OF THE  
21 PROPOSED GENERATION FACILITY. THE NOTICE SHALL BE WRITTEN IN PLAIN,  
22 NONTECHNICAL, AND EASILY UNDERSTOOD TERMS AND SHALL CONTAIN A TITLE  
23 THAT INCLUDES THE NAME OF THE ELECTRIC UTILITY AND THE WORDS  
24 "NOTICE OF INTENT TO CONSTRUCT AN ELECTRIC GENERATION FACILITY".

25 (5) THE COMMISSION SHALL CONDUCT A PROCEEDING ON THE  
26 APPLICATION AS A CONTESTED CASE UNDER CHAPTER 4 OF THE  
27 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO

1 24.287. UPON RECEIVING AN APPLICATION FOR A CERTIFICATE, EACH  
2 AFFECTED MUNICIPALITY AND EACH AFFECTED LANDOWNER SHALL BE GRANTED  
3 FULL INTERVENOR STATUS AS OF RIGHT IN COMMISSION PROCEEDINGS  
4 CONCERNING THE PROPOSED GENERATION FACILITY.

5 (6) THE COMMISSION SHALL GRANT OR DENY THE APPLICATION FOR A  
6 CERTIFICATE NOT LATER THAN 270 DAYS AFTER THE APPLICATION'S FILING  
7 DATE. THE COMMISSION MAY CONDITION ITS APPROVAL UPON THE  
8 APPLICANT'S TAKING ADDITIONAL ACTION TO ENSURE THE PUBLIC  
9 CONVENIENCE, HEALTH, AND SAFETY AND RELIABILITY OF THE PROPOSED  
10 ELECTRIC GENERATION FACILITY.

11 (7) THE COMMISSION SHALL GRANT THE APPLICATION AND ISSUE A  
12 CERTIFICATE IF IT DETERMINES ALL OF THE FOLLOWING:

13 (A) THE ELECTRIC UTILITY HAS DEMONSTRATED A NEED FOR THE  
14 GENERATION FACILITY THROUGH ITS INTEGRATED RESOURCE PLAN FILING.

15 (B) THE PROPOSED LOCATION IS FEASIBLE AND REASONABLE.

16 (C) THE PROPOSED GENERATION FACILITY DOES NOT PRESENT AN  
17 UNREASONABLE THREAT TO PUBLIC HEALTH OR SAFETY.

18 (D) THE ELECTRIC UTILITY CAN FINANCE THE GENERATION FACILITY  
19 ON REASONABLE TERMS.

20 (8) A CERTIFICATE ISSUED UNDER THIS SECTION SHALL IDENTIFY THE  
21 GENERATION FACILITY'S PROPOSED LOCATION AND SHALL CONTAIN AN  
22 ESTIMATED COST FOR THE GENERATION FACILITY.

23 (9) IF CONSTRUCTION OF A PROPOSED GENERATION FACILITY IS NOT  
24 BEGUN WITHIN 5 YEARS OF THE DATE THAT A CERTIFICATE IS GRANTED, THE  
25 CERTIFICATE IS INVALID AND A NEW CERTIFICATE SHALL BE REQUIRED FOR  
26 THE PROPOSED GENERATION FACILITY.

27 (10) A UTILITY THAT RECEIVES A CERTIFICATE FOR AN ELECTRIC

1 GENERATION FACILITY SHALL COMPETITIVELY BID THE ENGINEERING,  
2 PROCUREMENT, AND CONSTRUCTION PORTION OF THE GENERATION FACILITY.

3 (11) IF THE COMMISSION GRANTS A CERTIFICATE UNDER THIS  
4 SECTION, THAT CERTIFICATE SHALL TAKE PRECEDENCE OVER A CONFLICTING  
5 LOCAL ORDINANCE, LAW, RULE, REGULATION, POLICY, OR PRACTICE THAT  
6 PROHIBITS OR REGULATES THE LOCATION OR CONSTRUCTION OF A GENERATION  
7 FACILITY FOR WHICH THE COMMISSION HAS ISSUED A CERTIFICATE.

8 (12) THE COMMISSION SHALL ESTABLISH STANDARDS FOR AN  
9 INTEGRATED RESOURCE PLAN THAT SHALL BE FILED BY AN ELECTRIC UTILITY  
10 REQUESTING A CERTIFICATE. AN INTEGRATED RESOURCE PLAN SHALL INCLUDE  
11 ALL OF THE FOLLOWING:

12 (A) A LONG-TERM FORECAST OF THE ELECTRIC UTILITY'S LOAD  
13 GROWTH.

14 (B) THE TYPE OF GENERATION TECHNOLOGY PROPOSED FOR THE  
15 GENERATION FACILITY AND THE PROPOSED CAPACITY OF THE GENERATION  
16 FACILITY.

17 (C) ENERGY PURCHASED OR PRODUCED BY THE ELECTRIC UTILITY  
18 PURSUANT TO ANY RENEWABLE PORTFOLIO STANDARD.

19 (D) ENERGY EFFICIENCY SAVINGS, LOAD MANAGEMENT SAVINGS, AND  
20 DEMAND RESPONSE SAVINGS FOR THE ELECTRIC UTILITY.

21 (E) ELECTRIC TRANSMISSION OPTIONS FOR THE ELECTRIC UTILITY.

22 (13) CUSTOMERS WHO RECEIVE ELECTRIC GENERATION SERVICE FROM AN  
23 ELECTRIC UTILITY WHEN A CERTIFICATE IS ISSUED BUT SUBSEQUENTLY  
24 RECEIVE ELECTRIC GENERATION SERVICE FROM AN ALTERNATIVE ELECTRIC  
25 SUPPLIER SHALL BE ASSESSED A PRORATED SHARE OF THE FIXED COST OF  
26 THE NEW PLANT THROUGH A DISTRIBUTION CHARGE ESTABLISHED BY THE  
27 COMMISSION.



1           (14) CUSTOMERS WHO RECEIVE ELECTRIC GENERATION SERVICE FROM AN  
2 ALTERNATIVE ELECTRIC SUPPLIER WHEN A CERTIFICATE IS ISSUED BUT  
3 SUBSEQUENTLY RECEIVE ELECTRIC GENERATION SERVICE FROM AN ELECTRIC  
4 UTILITY THAT RECEIVES A CERTIFICATE WILL BE ASSESSED THE COST OF  
5 THE NEW PLANT IN THEIR BASE RATES. IF THAT CUSTOMER SUBSEQUENTLY  
6 RECEIVES SERVICE FROM AN ALTERNATIVE ELECTRIC SUPPLIER, THAT  
7 CUSTOMER SHALL BE ASSESSED A PRORATED SHARE OF THE FIXED COST OF  
8 THE NEW PLANT THROUGH A DISTRIBUTION CHARGE ESTABLISHED BY THE  
9 COMMISSION.

10           (15) CUSTOMERS WHO RECEIVE ELECTRIC GENERATION SERVICE FROM AN  
11 ALTERNATIVE ELECTRIC SUPPLIER WHEN A CERTIFICATE IS ISSUED SHALL  
12 NOT BE ASSESSED THE COST OF THE GENERATION FACILITY THAT RECEIVES A  
13 CERTIFICATE AS LONG AS THEY DO NOT RECEIVE ELECTRIC GENERATION  
14 SERVICE FROM AN ELECTRIC UTILITY THAT RECEIVES A CERTIFICATE.

15           (16) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, INFORMATION  
16 OBTAINED BY THE COMMISSION UNDER THIS SECTION IS A PUBLIC RECORD AS  
17 PROVIDED IN THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231  
18 TO 15.246.

19           (17) AN ELECTRIC UTILITY MAY DESIGNATE INFORMATION RECEIVED BY  
20 A THIRD PARTY THAT THE ELECTRIC UTILITY SUBMITS TO THE COMMISSION  
21 IN AN APPLICATION FOR A CERTIFICATE OR IN OTHER DOCUMENTS REQUIRED  
22 BY THE COMMISSION FOR PURPOSES OF CERTIFICATION AS BEING ONLY FOR  
23 THE CONFIDENTIAL USE OF THE COMMISSION. THE COMMISSION SHALL NOTIFY  
24 THE ELECTRIC UTILITY OF A REQUEST FOR PUBLIC RECORDS UNDER SECTION  
25 5 OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.235, IF  
26 THE SCOPE OF THE REQUEST INCLUDES INFORMATION DESIGNATED AS  
27 CONFIDENTIAL. THE ELECTRIC UTILITY HAS 10 DAYS AFTER THE RECEIPT OF

1 THE NOTICE TO DEMONSTRATE TO THE COMMISSION THAT THE INFORMATION  
2 DESIGNATED AS CONFIDENTIAL SHOULD NOT BE DISCLOSED BECAUSE THE  
3 INFORMATION IS A TRADE SECRET OR SECRET PROCESS OR IS PRODUCTION,  
4 COMMERCIAL, OR FINANCIAL INFORMATION THE DISCLOSURE OF WHICH WOULD  
5 JEOPARDIZE THE COMPETITIVE POSITION OF THE ELECTRIC UTILITY OR THE  
6 PERSON FROM WHOM THE INFORMATION WAS OBTAINED. THE COMMISSION SHALL  
7 NOT GRANT THE REQUEST FOR THE INFORMATION IF THE ELECTRIC UTILITY  
8 DEMONSTRATES TO THE SATISFACTION OF THE COMMISSION THAT THE  
9 INFORMATION SHOULD NOT BE DISCLOSED FOR A REASON AUTHORIZED IN THIS  
10 SECTION. IF THE COMMISSION MAKES A DECISION TO GRANT A REQUEST, THE  
11 INFORMATION REQUESTED SHALL NOT BE RELEASED UNTIL 3 DAYS HAVE  
12 ELAPSED AFTER NOTICE OF THE DECISION IS PROVIDED TO THE ELECTRIC  
13 UTILITY.

14 (18) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT THIS ACT  
15 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,  
16 MCL 24.201 TO 24.328. THE RULES MAY CONTAIN STANDARDS TO DETERMINE  
17 A PROPOSED ELECTRIC GENERATION FACILITY'S HEALTH AND SAFETY  
18 ASPECTS.

19 (19) UNTIL RULES ARE PROMULGATED AS PROVIDED IN SUBSECTION  
20 (18), THE COMMISSION SHALL CONSIDER AND DETERMINE ANY HEALTH OR  
21 SAFETY ISSUE A PARTY RAISES IN A PROCEEDING CONCERNING A  
22 CERTIFICATE APPLICATION.

23 SEC. 10FF. (1) THE MICHIGAN ENERGY EFFICIENCY PROGRAM IS  
24 CREATED WITHIN THE COMMISSION AND SHALL BE FUNDED BY THE FUND  
25 CREATED IN SUBSECTION (2).

26 (2) THE MICHIGAN ENERGY EFFICIENCY FUND IS CREATED IN THE  
27 STATE TREASURY AND SHALL BE ADMINISTERED BY THE COMMISSION AS

1 PROVIDED UNDER THIS SECTION. THE MONEY COLLECTED THROUGH THE  
2 SURCHARGE AUTHORIZED UNDER SUBSECTION (3) SHALL BE DEPOSITED WITH  
3 THE STATE TREASURER AND CREDITED TO THE FUND. THE STATE TREASURER  
4 MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO  
5 THE FUND. NO MONEY SHALL BE EXPENDED FROM THE FUND EXCEPT AS  
6 SPECIFICALLY AUTHORIZED BY THIS SECTION. MONEY IN THE FUND AT THE  
7 CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT  
8 LAPSE TO THE GENERAL FUND.

9 (3) THE COMMISSION SHALL, AFTER NOTICE AND HEARING, EVERY 3  
10 YEARS APPROVE AN ENERGY EFFICIENCY FACTOR THAT SHALL BE A  
11 NONBYPASSABLE SURCHARGE PAYABLE BY EVERY CUSTOMER OF AN ALTERNATIVE  
12 ELECTRIC SUPPLIER, COOPERATIVE ELECTRIC UTILITY, ELECTRIC UTILITY,  
13 OR MUNICIPAL UTILITY. THE COMMISSION MAY IMPOSE A SURCHARGE OF UP  
14 TO 1 MILL PER KILOWATT-HOUR OF ELECTRICITY USED. THE SURCHARGE  
15 SHALL BE PAYABLE BY ALL CUSTOMER CLASSES. MONEY COLLECTED BY A  
16 PARTICULAR UTILITY SHALL BE USED, TO THE EXTENT PRACTICABLE, TO  
17 FUND ENERGY EFFICIENCY PROGRAMS FOR THAT UTILITY'S CUSTOMERS. IN  
18 SETTING THE SURCHARGE UNDER THIS SUBSECTION, THE COMMISSION SHALL  
19 FACTOR IN ANY EXCESS MONEY IN THE FUND AT THE END OF THE 3-YEAR  
20 PERIOD.

21 (4) THE CHAIRPERSON OF THE COMMISSION SHALL ESTABLISH A  
22 SCREENING COMMITTEE TO MAKE RECOMMENDATIONS ON THE SELECTION OF A  
23 PROGRAM ADMINISTRATOR. THE COMMITTEE SHALL CONSIST OF THE  
24 CHAIRPERSON, THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT AND  
25 BUDGET, THE DIRECTOR OF THE DEPARTMENT OF TREASURY, AND 2 ENERGY  
26 EFFICIENCY EXPERTS APPOINTED BY THE CHAIRPERSON.

27 (5) THE COMMISSION SHALL EVERY 3 YEARS PREPARE A REQUEST FOR

1 PROPOSAL TO SELECT A PROGRAM ADMINISTRATOR. THE PROGRAM  
2 ADMINISTRATOR SELECTED SHALL HAVE NO AFFILIATION WITH ANY UTILITY.  
3 A PUBLIC ANNOUNCEMENT SHALL BE RELEASED TO THE TRADE PRESS AND  
4 LIKELY BIDDERS AND POSTED ON THE COMMISSION'S WEBSITE. ALL BIDS  
5 SHALL BE RECEIVED BY THE COMMISSION. THE COMMISSION SHALL EVALUATE  
6 THE BIDS UNDER ESTABLISHED EVALUATION CRITERIA ADOPTED BY THE  
7 COMMISSION AFTER INPUT FROM INTERESTED PARTIES IN A CONTESTED CASE  
8 PROCESS.

9 (6) THE COMMISSION SHALL ENTER INTO A CONTRACT WITH THE  
10 PROGRAM ADMINISTRATOR TO ADMINISTER THE PROGRAM. THE CONTRACT SHALL  
11 NOT EXCEED 3 YEARS IN LENGTH. MONEY FROM THE FUND SHALL BE USED TO  
12 ADMINISTER THE PROGRAM, INCLUDING, BUT NOT LIMITED TO, PAYING THE  
13 SALARY OF THE PROGRAM ADMINISTRATOR, THE COSTS OF THE PROGRAM, AND  
14 ANY INCENTIVES FOR ENERGY SAVINGS DESIGNATED IN THE PROGRAM  
15 ADMINISTRATOR'S CONTRACT. THE PROGRAM ADMINISTRATOR MAY CONDUCT  
16 ENERGY EFFICIENCY PROGRAMS OR SUBCONTRACT WITH ANOTHER ENTITY TO  
17 PERFORM THE TASKS OUTLINED IN THE CONTRACT.

18 (7) THE CHAIRPERSON SHALL ESTABLISH AN ADVISORY COMMITTEE TO  
19 PROVIDE ADVICE TO THE PROGRAM ADMINISTRATOR ON THE TYPE OF ENERGY  
20 EFFICIENCY PROGRAMS THE PROGRAM ADMINISTRATOR SHOULD IMPLEMENT. THE  
21 COMMITTEE SHALL CONSIST OF 10 INDIVIDUALS APPOINTED BY THE  
22 COMMISSIONER AS FOLLOWS:

23 (A) TWO INDIVIDUALS CHOSEN FROM COMMISSION STAFF.

24 (B) TWO INDIVIDUALS CHOSEN FROM A LIST SUBMITTED BY REGULATED  
25 UTILITIES.

26 (C) ONE INDIVIDUAL CHOSEN FROM A LIST SUBMITTED BY ELECTRIC  
27 COOPERATIVES.

1 (D) ONE INDIVIDUAL CHOSEN FROM A LIST SUBMITTED BY MUNICIPAL  
2 UTILITIES.

3 (E) TWO INDIVIDUALS CHOSEN FROM A LIST SUBMITTED BY CUSTOMER  
4 GROUPS.

5 (F) TWO INDIVIDUALS CHOSEN FROM A LIST SUBMITTED BY CONSUMER  
6 ADVOCATES.

7 (8) EVERY 3 YEARS THE COMMISSION SHALL ISSUE A REPORT TO THE  
8 LEGISLATURE AND THE GOVERNOR ON OR BEFORE FEBRUARY 1 REGARDING THE  
9 EFFECTIVENESS AND USE OF THE PROGRAM.

10 (9) AN INDUSTRIAL CUSTOMER WITH A PEAK LOAD OF OVER 1 MEGAWATT  
11 MAY CHOOSE NOT TO PARTICIPATE IN THE PROGRAM IF THAT CUSTOMER  
12 DEMONSTRATES TO THE COMMISSION THAT IT HAS ALREADY UNDERTAKEN  
13 SUFFICIENT ENERGY EFFICIENCY MEASURES.

14 (10) AS USED IN THIS SECTION, "FUND" MEANS THE ENERGY  
15 EFFICIENCY FUND CREATED UNDER SUBSECTION (2).

16 SEC. 11. (1) NOT LATER THAN 270 DAYS AFTER THE EFFECTIVE DATE  
17 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION SHALL  
18 REVIEW THE NET METERING PROGRAM PROVIDED FOR IN THE COMMISSION'S  
19 MARCH 29, 2005 ORDER IN CASE NO. U-14346. THE COMMISSION MAY MODIFY  
20 THE NET METERING PROGRAM BASED ON ITS REVIEW. THE COMMISSION MAY  
21 ESTABLISH ANY RATES, TERMS, AND CONDITIONS FOR THE NET METERING  
22 PROGRAM THAT THE COMMISSION CONSIDERS NECESSARY AND APPROPRIATE.  
23 THE NET METERING PROGRAM SHALL APPLY TO ALL ELECTRIC UTILITIES AND  
24 ALTERNATIVE ELECTRIC SUPPLIERS IN THIS STATE.

25 (2) AS USED IN THIS SECTION:

26 (A) "ALTERNATIVE ELECTRIC SUPPLIER" MEANS A PERSON, OTHER THAN  
27 AN ELECTRIC UTILITY, SELLING ELECTRIC GENERATION SERVICE TO RETAIL

1 CUSTOMERS IN THIS STATE. ALTERNATIVE ELECTRIC SUPPLIER DOES NOT  
2 INCLUDE A PERSON WHO PHYSICALLY DELIVERS ELECTRICITY DIRECTLY TO  
3 RETAIL CUSTOMERS IN THIS STATE.

4 (B) "ELECTRIC COOPERATIVE" MEANS AN ENERGY UTILITY ORGANIZED  
5 AS A COOPERATIVE CORPORATION UNDER SECTIONS 98 TO 109 OF THE  
6 MICHIGAN GENERAL CORPORATION ACT, 1931 PA 327, MCL 450.98 TO  
7 450.109.

8 (C) "ELECTRIC UTILITY" MEANS AN INVESTOR OWNED ELECTRIC  
9 UTILITY OR ELECTRIC COOPERATIVE SUBJECT TO RATE REGULATION BY THE  
10 COMMISSION.

11 (D) "NET METERING" MEANS AN ARRANGEMENT WHEREBY A CUSTOMER OF  
12 AN ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER MAY DO BOTH OF  
13 THE FOLLOWING:

14 (i) PURCHASE ELECTRICITY FROM THE REGULATED ELECTRIC UTILITY OR  
15 ALTERNATIVE ELECTRIC SUPPLIER.

16 (ii) SELL ELECTRICITY TO THE REGULATED ELECTRIC UTILITY OR  
17 ALTERNATIVE ELECTRIC SUPPLIER IF THE ELECTRICITY IS GENERATED BY A  
18 FACILITY ON THE PREMISES OF THE CUSTOMER, THE CAPACITY OF WHICH IS  
19 DESIGNED TO SERVE THE ANNUAL ELECTRIC GENERATION NEEDS OF THE  
20 CUSTOMER AT THE FACILITY'S LOCATION, AND THE ELECTRICITY IS IN  
21 EXCESS OF THE CUSTOMER'S CONSUMPTION NEEDS.

22 (3) THIS SECTION IS REPEALED EFFECTIVE 2 YEARS AFTER THE  
23 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.