

# SENATE BILL No. 1502

September 21, 2010, Introduced by Senator VAN WOERKOM and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 2008 PA 295, entitled  
"Clean, renewable, and efficient energy act,"  
by amending section 93 (MCL 460.1093).

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

1           Sec. 93. (1) An eligible primary or secondary electric  
2 customer is exempt from charges the customer would otherwise incur  
3 **AS AN ELECTRIC CUSTOMER** under section 89 or 91 if the customer  
4 files with its electric provider and implements a self-directed  
5 energy optimization plan as provided in this section.

6           (2) ~~Eligibility~~**SUBJECT TO SUBSECTION (3)**, requirements for  
7 the exemption under subsection (1) are as follows:

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

1 aggregate at all sites to be covered by the plan.

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

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

10 (3) AN ELECTRIC CUSTOMER THAT INSTALLS OR MODIFIES AN ELECTRIC  
11 ENERGY EFFICIENCY IMPROVEMENT UNDER A PROPERTY ASSESSED CLEAN  
12 ENERGY PROGRAM PURSUANT TO THE PROPERTY ASSESSED CLEAN ENERGY ACT  
13 IS ELIGIBLE FOR THE EXEMPTION UNDER SUBSECTION (1) REGARDLESS OF  
14 ITS ANNUAL PEAK ELECTRICITY DEMANDS.

15 (4) ~~(3)~~—The commission shall by order establish the rates,  
16 terms, and conditions of service for customers related to this  
17 subpart.

18 (5) ~~(4)~~—The commission shall by order do all of the following:

19 (a) Require a customer to utilize the services of an energy  
20 optimization service company to develop and implement a self-  
21 directed plan. This subdivision does not apply to a customer that  
22 had an annual peak demand in the preceding year of at least 2  
23 megawatts at each site to be covered by the self-directed plan or  
24 10 megawatts in the aggregate at all sites to be covered by the  
25 self-directed plan.

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

1 (c) Provide a mechanism to cover the costs of the low income  
2 energy optimization program under section 89.

3 (6) ~~(5)~~—All of the following apply to a self-directed energy  
4 optimization plan under subsection (1):

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

7 (b) The self-directed plan shall provide for aggregate energy  
8 savings that ~~for~~ each year meet or exceed the energy optimization  
9 ~~performance~~ standards based on the electricity purchases in the  
10 previous year for the site or sites covered by the self-directed  
11 plan.

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

17 (i) Changes in electricity usage because of changes in business  
18 activity levels not attributable to energy optimization.

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

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

27 (e) The self-directed plan shall outline how the customer

1 intends to achieve the incremental energy savings specified in the  
2 self-directed plan.

3       (7) ~~(6)~~—A self-directed energy optimization plan shall be  
4 incorporated into the relevant electric provider's energy  
5 optimization plan. The self-directed plan and information submitted  
6 by the customer under subsection ~~(9)~~—(10) are confidential and  
7 exempt from disclosure under the freedom of information act, 1976  
8 PA 442, MCL 15.231 to 15.246. Projected energy savings from  
9 measures implemented under a self-directed plan shall be attributed  
10 to the relevant provider's energy optimization programs for the  
11 purposes of determining annual incremental energy savings achieved  
12 by the provider under section 77 or 81, as applicable.

13       (8) ~~(7)~~—Once a customer begins to implement a self-directed  
14 plan at a site covered by the self-directed plan, that site is  
15 exempt from energy optimization program charges under section 89 or  
16 91 and is not eligible to participate in the relevant electric  
17 provider's energy optimization programs.

18       (9) ~~(8)~~—A customer implementing a self-directed energy  
19 optimization plan under this section shall submit to the customer's  
20 electric provider every 2 years a brief report documenting the  
21 energy efficiency measures taken under the self-directed plan  
22 during that 2-year period, and the corresponding energy savings  
23 that will result. The report shall provide sufficient information  
24 for the provider and the commission to monitor progress toward the  
25 goals in the self-directed plan and to develop reliable estimates  
26 of the energy savings that are being achieved from self-directed  
27 plans. A customer shall promptly notify the provider if the

1 customer fails to achieve incremental energy savings as set forth  
2 in its self-directed plan for a year that will be the first year  
3 covered by the next biannual report. If a customer submitting a  
4 report or notice under this subsection wishes to amend its self-  
5 directed plan, the customer shall submit with the report or notice  
6 an amended self-directed plan. A report under this subsection shall  
7 be accompanied by an affidavit from a knowledgeable official of the  
8 customer that the information in the report is true and correct to  
9 the best of the official's knowledge and belief. If the customer  
10 has retained an independent energy optimization service company,  
11 the requirements of this subsection shall be met by the energy  
12 optimization service company.

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

21 (11) ~~(10)~~—If the commission determines after a contested case  
22 hearing that the minimum energy optimization goals under subsection  
23 ~~(5) (b)~~ **(6) (B)** have not been achieved at the sites covered by a  
24 self-directed plan, in aggregate, the commission shall order the  
25 customer or customers collectively to pay to this state an amount  
26 calculated as follows:

27 (a) Determine the proportion of the shortfall in achieving the

1 minimum energy optimization goals under subsection ~~(5)(b)~~ **(6) (B)** .

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

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

9 **(12)** ~~(11)~~—If a customer has submitted a self-directed plan to  
10 an electric provider, the customer, the customer's energy  
11 optimization service company, if applicable, or the electric  
12 provider shall provide a copy of the self-directed plan to the  
13 commission upon request.

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

1 process for energy optimization service companies shall require  
2 adherence to a code of conduct governing the relationship between  
3 energy optimization service companies and electric providers.

4       (14) ~~(13)~~—The department of **ENERGY**, labor, and economic growth  
5 shall maintain on the department's website a list of energy  
6 optimization service companies approved under subsection ~~(12)~~—(13).

7       Enacting section 1. This amendatory act does not take effect  
8 unless House Bill No. 5640 of the 95th Legislature is enacted into  
9 law.