

SENATE BILL No. 295

April 23, 2015, Introduced by Senators HOPGOOD, KNEZEK, ANANICH, SMITH, HERTEL, WARREN, YOUNG, HOOD, JOHNSON, GREGORY and BIEDA and referred to the Committee on Energy and Technology.

A bill to amend 2008 PA 295, entitled "Clean, renewable, and efficient energy act," by amending sections 21, 23, 25, 27, and 31 (MCL 460.1021, 460.1023, 460.1025, 460.1027, and 460.1031).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) This section applies only to electric providers
2 whose rates are regulated by the commission.

3 (2) Each electric provider shall file a proposed renewable
4 energy plan with the commission within 90 days after the commission
5 issues a temporary order under section ~~171.~~191. The proposed plan
6 shall meet all of the following requirements:

7 (a) Describe how the electric provider will meet the renewable
8 energy standards.

9 (b) Specify whether the number of megawatt hours of

1 electricity used in the calculation of the renewable energy credit
2 portfolio will be weather-normalized or based on the average number
3 of megawatt hours of electricity sold by the electric provider
4 annually during the previous 3 years to retail customers in this
5 state. Once the plan is approved by the commission, this option
6 shall not be changed.

7 ~~—— (c) Include the expected incremental cost of compliance with
8 the renewable energy standards for a 20-year period beginning when
9 the plan is approved by the commission.~~

10 (C) ~~(d)~~ For an electric provider that had 1,000,000 or more
11 retail customers in this state on January 1, 2008, describe the
12 bidding process to be used by the electric provider under section
13 33. The description shall include measures to be employed in the
14 preparation of requests for proposals and the handling and
15 evaluation of proposals received to ensure that any bidder that is
16 an affiliate of the electric utility **PROVIDER** is not afforded a
17 competitive advantage over any other bidder and that each bidder,
18 including any bidder that is an affiliate of the electric provider,
19 is treated in a fair and nondiscriminatory manner.

20 ~~—— (3) The proposed plan shall establish a nonvolumetric
21 mechanism for the recovery of the incremental costs of compliance
22 within the electric provider's customer rates. The revenue recovery
23 mechanism shall not result in rate impacts that exceed the monthly
24 maximum retail rate impacts specified under section 45. The revenue
25 recovery mechanism is subject to adjustment under sections 47(4)
26 and 49. A customer participating in a commission approved voluntary
27 renewable energy program under an agreement in effect on the~~

~~1 effective date of this act shall not incur charges under the
2 revenue recovery mechanism unless the charges under the revenue
3 recovery mechanism exceed the charges the customer is incurring for
4 the voluntary renewable energy program. In that case, the customer
5 shall only incur the difference between the charge assessed under
6 the revenue recovery mechanism and the charges the customer is
7 incurring for the voluntary renewable energy program. The
8 limitation on charges applies only during the term of the
9 agreement, not including automatic agreement renewals, or until 1
10 year after the effective date of this act, whichever is later.
11 Before entering an agreement with a customer to participate in a
12 commission approved voluntary renewable energy program and before
13 the last automatic monthly renewal of such an agreement that will
14 occur less than 1 year after the effective date of this act, an
15 electric provider shall notify the customer that the customer will
16 be responsible for the full applicable charges under the revenue
17 recovery mechanism and under the voluntary renewable energy program
18 as provided under this subsection.~~

~~19 — (4) If proposed by the electric provider in its proposed plan,
20 the revenue recovery mechanism shall result in an accumulation of
21 reserve funds in advance of expenditure and the creation of a
22 regulatory liability that accrues interest at the average short-
23 term borrowing rate available to the electric provider during the
24 appropriate period. If proposed by the electric provider in its
25 proposed plan, the commission shall establish a minimum balance of
26 accumulated reserve funds for the purposes of section 47(4).~~

27 (3) ~~(5)~~—The commission shall conduct a contested case hearing

1 on the proposed plan filed under subsection (2), pursuant to the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328. If a renewable energy generator files a petition to
4 intervene in the contested case in the manner prescribed by the
5 commission's rules for interventions generally, the commission
6 shall grant the petition. Subject to subsections ~~(6)~~-(4) and ~~(10)~~,
7 (8), after the hearing and within 90 days after the proposed plan
8 is filed with the commission, the commission shall approve, with
9 any changes consented to by the electric provider, or reject the
10 plan.

11 (4) ~~(6)~~—The commission shall not approve an electric
12 provider's plan unless the commission determines both of the
13 following:

14 (a) That the plan is reasonable and prudent. In making this
15 determination, the commission shall take into consideration
16 projected costs and whether or not projected costs included in
17 prior plans were exceeded.

18 (b) That the life-cycle cost of renewable energy acquired or
19 generated under the plan less the projected life-cycle net savings
20 associated with the provider's energy optimization plan does not
21 exceed the expected life-cycle cost of electricity generated by a
22 new conventional coal-fired facility. In determining the expected
23 life-cycle cost of electricity generated by a new conventional
24 coal-fired facility, the commission shall consider data from this
25 state and the states of Ohio, Indiana, Illinois, Wisconsin, and
26 Minnesota, including ~~, if applicable,~~ the life-cycle costs of the
27 renewable energy system and new conventional coal-fired facilities.

1 When determining the life-cycle costs of the renewable energy
2 system and new conventional coal-fired facilities, the commission
3 shall use a methodology that includes, but is not limited to,
4 consideration of the value of energy, capacity, and ancillary
5 services. The commission shall also consider other costs such as
6 transmission, economic benefits, and environmental costs,
7 including, but not limited to, greenhouse gas constraints or taxes.
8 In performing its assessment, the commission may utilize other
9 available data, including national or regional reports and data
10 published by federal or state governmental agencies, industry
11 associations, and consumer groups.

12 ~~—— (7) An electric provider shall not begin recovery of the~~
13 ~~incremental costs of compliance within its rates until the~~
14 ~~commission has approved its proposed plan.~~

15 (5) ~~(8)~~—Every 2 years after initial approval of a plan under
16 subsection ~~(5)~~, ~~(3)~~, the commission shall review the plan. The
17 commission shall conduct a contested case hearing on the plan
18 pursuant to the administrative procedures act of 1969, 1969 PA 306,
19 MCL 24.201 to 24.328. ~~The annual renewable cost reconciliation~~
20 ~~under section 49 for that year may be joined with the overall plan~~
21 ~~review in the same contested case hearing.~~ Subject to subsections
22 ~~(6)~~ ~~(4)~~ and ~~(10)~~, ~~(7)~~, after the hearing, the commission shall
23 approve, with any changes consented to by the electric provider, or
24 reject the plan and any proposed amendments to the plan.

25 (6) ~~(9)~~—If an electric provider proposes to amend its plan at
26 a time other than during the biennial review process under
27 subsection ~~(8)~~, ~~(5)~~, the electric provider shall file the proposed

1 amendment with the commission. If the proposed amendment would
 2 modify the revenue recovery mechanism, the commission shall conduct
 3 a contested case hearing on the amendment pursuant to the
 4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 5 24.328. ~~The annual renewable cost reconciliation under section 49~~
 6 ~~may be joined with the plan amendment in the same contested case~~
 7 ~~proceeding.~~ Subject to subsections ~~(6)~~ **(4)** and ~~(10)~~, **(7)**, after the
 8 hearing and within 90 days after the amendment is filed, the
 9 commission shall approve, with any changes consented to by the
 10 electric provider, or reject the plan and the proposed amendment or
 11 amendments to the plan.

12 **(7)** ~~(10)~~—If the commission rejects a proposed plan or
 13 amendment under this section, the commission shall explain in
 14 writing the reasons for its determination.

15 **(8) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2015**
 16 **AMENDATORY ACT THAT AMENDED SECTION 27, EACH ELECTRIC PROVIDER**
 17 **SHALL FILE WITH THE COMMISSION A PLAN AMENDMENT TO COMPLY WITH THE**
 18 **INCREASED RENEWABLE ENERGY PORTFOLIO REQUIREMENTS OF SECTION 27.**

19 Sec. 23. (1) This section applies only to alternative electric
 20 suppliers and cooperative electric utilities that have elected to
 21 become member-regulated under the electric cooperative member-
 22 regulation act, 2008 PA 167, MCL 460.31 to 460.39.

23 (2) Each ~~alternative electric supplier or cooperative electric~~
 24 ~~utility~~ **PROVIDER** shall file a proposed renewable energy plan with
 25 the commission within 90 days or 120 days, respectively, after the
 26 commission issues a temporary order under section ~~171~~ **191**. The
 27 proposed plan shall meet all of the following requirements:

1 (a) Describe how the electric provider will meet the renewable
2 energy standards.

3 (b) Specify whether the number of megawatt hours of
4 electricity used in the calculation of the renewable energy
5 portfolio will be weather-normalized or based on the average number
6 of megawatt hours of electricity sold by the electric provider
7 annually during the previous 3 years to retail customers in this
8 state. Once the plan is approved by the commission, this option
9 shall not be changed.

10 (3) The commission shall provide an opportunity for public
11 comment on the proposed plan filed under subsection (2). After the
12 opportunity for public comment and within 90 days after the
13 proposed plan is filed with the commission, the commission shall
14 approve, with any changes consented to by the electric provider, or
15 reject the plan.

16 (4) Every 2 years after initial approval of a plan under
17 subsection (3), the commission shall review the plan. The
18 commission shall provide an opportunity for public comment on the
19 plan. After the opportunity for public comment, the commission
20 shall approve, with any changes consented to by the electric
21 provider, or reject any proposed amendments to the plan.

22 (5) If an electric provider proposes to amend its plan at a
23 time other than during the biennial review process under subsection
24 (4), the electric provider shall file the proposed amendment with
25 the commission. The commission shall provide an opportunity for
26 public comment on the amendment. After the opportunity for public
27 comment and within 90 days after the amendment is filed, the

1 commission shall approve, with any changes consented to by the
2 electric provider, or reject the amendment.

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

6 (7) **NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2015**
7 **AMENDATORY ACT THAT AMENDED SECTION 27, EACH ELECTRIC PROVIDER**
8 **SHALL FILE WITH THE COMMISSION A PLAN AMENDMENT TO COMPLY WITH THE**
9 **INCREASED RENEWABLE ENERGY PORTFOLIO REQUIREMENTS OF SECTION 27.**

10 Sec. 25. (1) This section applies only to municipally-owned
11 electric utilities.

12 (2) Each electric provider shall file a proposed renewable
13 energy plan with the commission within 120 days after the
14 commission issues a temporary order under section ~~171.~~191. Two or
15 more electric providers that each serve fewer than 15,000 customers
16 may file jointly. The proposed plan shall meet all of the following
17 requirements:

18 (a) Describe how the **ELECTRIC** provider will meet the renewable
19 energy standards.

20 (b) Specify whether the number of megawatt hours of
21 electricity used in the calculation of the renewable energy credit
22 portfolio will be weather-normalized or based on the average number
23 of 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 commission determines that the proposed plan
26 complies with this act, this option shall not be changed.

27 ~~—(c) Include the expected incremental cost of compliance with~~

1 ~~the renewable energy standards.~~

2 (C) ~~(d)~~ Describe the manner in which the provider will
3 allocate costs.

4 (3) Subject to subsection (6), the commission shall provide an
5 opportunity for public comment on the proposed plan filed under
6 subsection (2). After the applicable opportunity for public comment
7 and within 90 days after the proposed plan is filed with the
8 commission, the commission shall determine whether the proposed
9 plan complies with this act.

10 (4) Every 2 years after the commission initially determines
11 under subsection (3) that a renewable energy plan complies with
12 this act, the commission shall review the plan. Subject to
13 subsection (6), the commission shall provide an opportunity for
14 public comment on the plan. After the applicable opportunity for
15 public comment, the commission shall determine whether any
16 amendment to the plan proposed by the provider complies with this
17 act. The proposed amendment is adopted if the commission determines
18 that it complies with this act.

19 (5) If a provider proposes to amend its renewable energy plan
20 at a time other than during the biennial review process under
21 subsection (4), the provider shall file the proposed amendment with
22 the commission. Subject to subsection (6), the commission shall
23 provide an opportunity for public comment on the amendment. After
24 the applicable opportunity for public comment and within 90 days
25 after the amendment is filed, the commission shall determine
26 whether the proposed amendment to the plan complies with this act.
27 The proposed amendment is adopted if the commission determines that

1 it complies with this act.

2 (6) The commission need not provide an opportunity for public
3 comment under subsection (3), (4), or (5) if the governing body of
4 the provider has already provided an opportunity for public comment
5 and filed the comments with the commission.

6 (7) If the commission determines that a proposed plan or
7 amendment under this section does not comply with this act, the
8 commission shall explain in writing the reasons for its
9 determination.

10 (8) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2015
11 AMENDATORY ACT THAT AMENDED SECTION 27, EACH ELECTRIC PROVIDER
12 SHALL FILE WITH THE COMMISSION A PLAN AMENDMENT TO COMPLY WITH THE
13 INCREASED RENEWABLE ENERGY PORTFOLIO REQUIREMENTS OF SECTION 27.

14 Sec. 27. (1) Subject to ~~sections~~ SECTION 31, and ~~45,~~ and in
15 addition to the requirements of subsection (3), an electric
16 provider that is an electric utility with 1,000,000 or more retail
17 customers in this state as of January 1, 2008 shall achieve a
18 renewable energy capacity portfolio of not less than the following:

19 (a) For an electric provider with more than 1,000,000 but less
20 than 2,000,000 retail electric customers in this state on January
21 1, 2008, a renewable energy capacity portfolio of 200 megawatts by
22 December 31, 2013 and 500 megawatts by December 31, 2015.

23 (b) For an electric provider with more than 2,000,000 retail
24 electric customers in this state on January 1, 2008, a renewable
25 energy capacity portfolio of 300 megawatts by December 31, 2013 and
26 600 megawatts by December 31, 2015.

27 (2) An electric provider's renewable energy capacity portfolio

1 shall be calculated by adding the following:

2 (a) The nameplate capacity in megawatts of renewable energy
3 systems owned by the electric provider that were not in commercial
4 operation before ~~the effective date of this act~~ **OCTOBER 6, 2008**.

5 (b) The capacity in megawatts of renewable energy that the
6 electric provider is entitled to purchase under contracts that were
7 not in effect before ~~the effective date of this act~~ **OCTOBER 6,**
8 **2008**.

9 (3) Subject to ~~sections~~ **SECTION** 31, and ~~45~~, an electric
10 provider shall achieve a renewable energy credit portfolio as
11 follows:

12 (a) In 2012, 2013, 2014, and 2015, a renewable energy credit
13 portfolio based on the sum of the following:

14 (i) The number of renewable energy credits from electricity
15 generated in the 1-year period preceding ~~the effective date of this~~
16 ~~act~~ **OCTOBER 6, 2008** that would have been transferred to the
17 electric provider pursuant to section 35(1), if this act had been
18 in effect during that 1-year period.

19 (ii) The number of renewable energy credits equal to the
20 number of megawatt hours of electricity produced or obtained by the
21 electric provider in the 1-year period preceding ~~the effective date~~
22 ~~of this act~~ **OCTOBER 6, 2008** from renewable energy systems for which
23 recovery in electric rates was approved ~~on the effective date of~~
24 ~~this act~~ **AS OF OCTOBER 6, 2008**.

25 (iii) Renewable energy credits in an amount calculated as
26 follows:

27 (A) Taking into account the number of renewable energy credits

1 under subparagraphs (i) and (ii), determine the number of
2 additional renewable energy credits that the electric provider
3 would need to reach a ~~10%~~ renewable energy **CREDIT** portfolio in that
4 year **EQUAL TO 10% OF THE NUMBER OF MEGAWATT HOURS PROVIDED BY THE**
5 **ELECTRIC PROVIDER AS DETERMINED FOR THAT YEAR SUBJECT TO SECTION**
6 **21(2) (B) .**

7 (B) Multiply the number under sub-subparagraph (A) by 20% for
8 2012, 33% for 2013, 50% for 2014, and 100% for 2015.

9 (b) In 2016 and each year thereafter **THROUGH 2021**, ~~maintain a~~
10 renewable energy credit portfolio that consists of at least the
11 same number of renewable energy credits as were required in 2015
12 under subdivision (a).

13 (C) **IN 2022, A 20% RENEWABLE ENERGY CREDIT PORTFOLIO.**

14 (D) **IN 2023 AND EACH YEAR THEREAFTER, A RENEWABLE ENERGY**
15 **CREDIT PORTFOLIO THAT CONSISTS OF AT LEAST THE SAME NUMBER OF**
16 **RENEWABLE ENERGY CREDITS AS WERE REQUIRED IN 2022 UNDER SUBDIVISION**
17 **(C) .**

18 (4) An electric provider's renewable energy credit portfolio
19 shall be calculated as follows:

20 (a) Determine the number of renewable energy credits used to
21 comply with this subpart during the applicable year.

22 (b) Divide by 1 of the following at the option of the electric
23 provider as specified in its renewable energy plan:

24 (i) The number of weather-normalized megawatt hours of
25 electricity sold by the electric provider during the previous year
26 to retail customers in this state.

27 (ii) The average number of megawatt hours of electricity sold

1 by the electric provider annually during the previous 3 years to
2 retail customers in this state.

3 (c) Multiply the quotient under subdivision (b) by 100.

4 (5) Subject to subsection (6), each electric provider shall
5 meet the renewable energy credit standards with renewable energy
6 credits obtained by 1 or more of the following means:

7 (a) Generating electricity from renewable energy systems for
8 sale to retail customers.

9 (b) Purchasing or otherwise acquiring renewable energy credits
10 with or without the associated renewable energy.

11 (6) An electric provider may substitute energy optimization
12 credits, advanced cleaner energy credits with or without the
13 associated advanced cleaner energy, or a combination thereof for
14 renewable energy credits otherwise required to meet the renewable
15 energy credit standards if the substitution is approved by the
16 commission. However, commission approval is not required to
17 substitute advanced cleaner energy from industrial cogeneration for
18 renewable energy credits. The commission shall not approve a
19 substitution unless the commission determines that the substitution
20 is cost-effective compared to other sources of renewable energy
21 credits and, if the substitution involves advanced cleaner energy
22 credits, that the advanced cleaner energy system provides carbon
23 dioxide emissions benefits. In determining whether the substitution
24 of advanced cleaner energy credits is cost-effective, the
25 commission shall include as part of the costs of the system the
26 environmental costs attributed to the advanced cleaner energy
27 system, including the costs of environmental control equipment or

1 greenhouse gas constraints or taxes. The commission's
2 determinations shall be made after a contested case hearing that
3 includes consultation with the department of environmental quality
4 on the issue of carbon dioxide emissions benefits, if relevant, and
5 environmental costs.

6 (7) Under subsection (6), energy optimization credits,
7 advanced cleaner energy credits, or a combination thereof shall not
8 be used by a provider to meet more than 10% of the renewable energy
9 credit standards. Advanced cleaner energy from advanced cleaner
10 energy systems in existence on January 1, 2008 shall not be used by
11 a provider to meet more than 70% of this 10% limit. This 10% limit
12 does not apply to advanced cleaner energy credits from plasma arc
13 gasification.

14 (8) Substitutions under subsection (6) shall be made at the
15 following rates per renewable energy credit:

16 (a) One energy optimization credit.

17 (b) One advanced cleaner energy credit from plasma arc
18 gasification or industrial cogeneration.

19 (c) Ten advanced cleaner energy credits other than from plasma
20 arc gasification or industrial cogeneration.

21 Sec. 31. (1) Upon petition by an electric provider, the
22 commission may for good cause grant 2 extensions of the 2015 **AND 2**
23 **EXTENSIONS OF THE 2022** renewable energy standard deadline under
24 section 27. Each extension shall be for up to 1 year.

25 (2) If 2 extensions of the 2015 **OR 2 EXTENSIONS OF THE 2022**
26 renewable energy standard deadline have been granted to an electric
27 provider under subsection (1), upon subsequent petition by the

1 electric provider at least 3 months before the expiration of the
2 second ~~extended~~ **EXTENSION OF THAT** deadline, the commission shall,
3 after consideration of prior extension requests under this section
4 and for good cause, establish a revised renewable energy standard
5 attainable by the electric provider. If the electric provider
6 achieves the revised renewable energy standard, the provider is
7 considered to be in compliance with **THE RENEWABLE ENERGY STANDARD**
8 **OTHERWISE REQUIRED TO BE ACHIEVED UNDER** this subpart **BY THAT**
9 **DEADLINE.**

10 (3) An electric provider that ~~makes a good faith effort to~~
11 ~~spend the full amount of incremental costs of compliance as~~
12 ~~outlined in its approved renewable energy plan and that complies~~
13 with its approved plan, subject to any approved extensions or
14 revisions, shall be considered to be in compliance with this
15 subpart.

16 (4) As used in this section, "good cause" includes, but is not
17 limited to, the electric provider's inability, as determined by the
18 commission, to meet a renewable energy standard because of a
19 renewable energy system feasibility limitation including, but not
20 limited to, any of the following:

21 (a) Renewable energy system site requirements, zoning, siting,
22 land use issues, permits, including environmental permits, any
23 certificate of ~~need~~ **NECESSITY** process under section 6s of 1939 PA
24 3, MCL 460.6s, or any other necessary governmental approvals that
25 effectively limit availability of renewable energy systems, if the
26 electric provider exercised reasonable diligence in attempting to
27 secure the necessary governmental approvals. For purposes of this

1 subdivision, "reasonable diligence" includes, but is not limited
2 to, submitting timely applications for the necessary governmental
3 approvals and making good faith efforts to ensure that the
4 applications are administratively complete and technically
5 sufficient.

6 ~~(b) Equipment cost or availability issues including electrical~~
7 ~~equipment or renewable energy system component shortages or high~~
8 ~~costs that~~ **HIGH COSTS OF OR SHORTAGES OF RENEWABLE ENERGY SYSTEM**
9 **COMPONENTS OR ELECTRICAL EQUIPMENT IF THE HIGH COSTS OR SHORTAGES**
10 effectively limit availability of renewable energy systems.

11 (c) Cost, availability, or time requirements for electric
12 transmission and interconnection.

13 (d) Projected or actual unfavorable electric system
14 reliability or operational impacts.

15 (e) Labor shortages that effectively limit availability of
16 renewable energy systems.

17 (f) An order of a court of competent jurisdiction that
18 effectively limits the availability of renewable energy systems.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.

21 Enacting section 2. This amendatory act does not take effect
22 unless Senate Bill No. 297

23 of the 98th Legislature is enacted into law.