

HOUSE BILL NO. 5619

December 08, 2021, Introduced by Rep. Outman and referred to the Committee on Energy.

A bill to amend 2008 PA 295, entitled "Clean and renewable energy and energy waste reduction act," by amending sections 73, 77, and 97 (MCL 460.1073, 460.1077, and 460.1097), as amended by 2016 PA 342.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 73. (1) A provider's energy waste reduction plan shall be
2 filed with, reviewed by, and approved or rejected by the
3 commission. For a provider whose rates are regulated by the
4 commission, the plan shall be enforced by the commission. For a

1 provider whose rates are not regulated by the commission, the plan
2 shall be enforced as provided in section 99. Notwithstanding any
3 other provision of this subpart, the commission shall allow
4 municipally owned electric utilities to design and administer
5 energy waste reduction plans in a manner consistent with the
6 administrative changes approved in the commission's April 17, 2012
7 order in case nos. U-16688 to U-16728 and U-17008.

8 (2) The commission shall not approve a proposed energy waste
9 reduction plan unless the commission determines that the energy
10 waste reduction plan meets the utility system resource cost test
11 and, subject to section 78, is reasonable and prudent. In
12 determining whether the energy waste reduction plan is reasonable
13 and prudent, the commission shall review each element and consider
14 whether it would reduce the future cost of service for the
15 provider's customers. In addition, the commission shall consider at
16 least all of the following:

17 (a) The specific changes in customers' consumption patterns
18 that the proposed energy waste reduction plan is ~~attempting~~
19 **designed** to influence.

20 (b) The cost and benefit analysis and other justification for
21 specific programs and measures included in a proposed energy waste
22 reduction plan.

23 (c) Whether the proposed energy waste reduction plan is
24 consistent with any long-range resource plan filed by the provider
25 with the commission.

26 (d) Whether the proposed energy waste reduction plan will
27 result in any unreasonable prejudice or disadvantage to any class
28 of customers.

29 (e) The extent to which the energy waste reduction plan

1 provides programs that are available, affordable, and useful to all
2 customers.

3 (3) Every 2 years after initial approval of an energy waste
4 reduction plan under subsection (2), the commission shall review
5 the plan. For a provider whose rates are regulated by the
6 commission, the commission shall conduct a contested case hearing
7 on the plan pursuant to the administrative procedures act of 1969,
8 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the
9 commission shall approve, with any changes consented to by the
10 provider, or reject the plan and any proposed amendments to the
11 plan.

12 (4) If a provider proposes to amend its plan at a time other
13 than during the biennial review process under subsection (3), the
14 provider shall file the proposed amendment with the commission.
15 After the hearing and within 90 days after the amendment is filed,
16 the commission shall approve, with any changes consented to by the
17 provider, or reject the plan and the proposed amendment or
18 amendments to the plan.

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

22 ~~(6) After December 31, 2021, this section does not apply to an~~
23 ~~electric provider whose rates are not regulated by the commission.~~

24 Sec. 77. (1) ~~Except as provided in section 81 and subject~~
25 **Subject** to section 97, an electric provider's energy waste
26 reduction programs under this subpart shall collectively achieve
27 incremental energy savings each year through ~~2021~~**2026** equivalent
28 to 1.0% of total annual retail electricity sales in megawatt hours
29 in the preceding year.

1 (2) If an electric provider uses load management to achieve
2 energy savings under its energy waste reduction plan, the minimum
3 energy savings required under subsection (1) shall be adjusted by
4 an amount such that the ratio of the minimum energy savings to the
5 sum of actual expenditures for implementing its approved energy
6 waste reduction plan and the load management expenditures remains
7 constant.

8 (3) Subject to section 97, a natural gas provider's energy
9 waste reduction program under this subpart shall achieve annual
10 incremental energy savings each year equivalent to 0.75% of total
11 annual retail natural gas sales in decatherms or equivalent MCFs in
12 the preceding year.

13 (4) Incremental energy savings under subsection (1) or (3) for
14 a year shall be determined for a provider by adding the energy
15 savings expected to be achieved by energy waste reduction measures
16 implemented during that year under any energy waste reduction
17 programs consistent with the provider's energy waste reduction
18 plan. The energy savings expected to be achieved shall be
19 determined using a savings database or other savings measurement
20 approach as determined reasonable by the commission.

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

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

29 (b) The average number of megawatt hours or decatherms or

1 equivalent MCFs sold by the provider during the 3 years preceding
2 the year for which incremental energy savings are being calculated.

3 (6) For any year after 2012, an electric provider may
4 substitute renewable energy credits associated with renewable
5 energy generated that year from a renewable energy system
6 constructed after October 6, 2008, load management that reduces
7 overall energy usage, or a combination thereof for energy waste
8 reduction credits otherwise required to meet the energy waste
9 reduction standard, if the substitution is approved by the
10 commission. The commission shall not approve a substitution unless
11 the commission determines that the substitution is cost-effective.

12 (7) Renewable energy credits, load management that reduces
13 overall energy usage, or a combination thereof shall not be used by
14 a provider to meet more than 10% of the energy waste reduction
15 standard. Substitutions for energy waste reduction credits shall be
16 made at the rate of 1 renewable energy credit per energy waste
17 reduction credit.

18 Sec. 97. (1) By a time determined by the commission, each
19 provider shall submit to the commission an annual report that
20 provides information relating to the actions taken by the provider
21 to comply with the energy waste reduction standards. By that same
22 time, a municipally owned electric utility shall submit a copy of
23 the report to the governing body of the municipally owned electric
24 utility, and a cooperative electric utility shall submit a copy of
25 the report to its board of directors.

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

28 (a) The amount of energy waste reduction achieved during the
29 reporting period.

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

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

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

17 (4) The commission shall submit to the standing committees of
18 the senate and house of representatives with primary responsibility
19 for energy issues an annual report that evaluates and determines
20 whether this subpart has been cost-effective and makes
21 recommendations to the legislature. The report may be combined with
22 the annual report under section 5a of 1939 PA 3, MCL 460.5a.

23 (5) ~~Subject to subsection (6), if~~ **If** the commission determines
24 that a provider's energy waste reduction program under this subpart
25 has not been cost-effective, the provider's program is suspended
26 beginning 180 days after the date of the determination. If a
27 provider's energy waste reduction program is suspended under this
28 subsection, both of the following apply:

29 (a) The provider shall maintain cumulative incremental energy

1 savings in megawatt hours or decatherms or equivalent MCFs in
2 subsequent years at the level actually achieved during the year
3 preceding the year in which the commission's determination is made.

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

8 ~~(6) Subsection (5) does not apply to an electric provider on~~
9 ~~or after January 1, 2022.~~