

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 502**

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 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, 6m, and 6t (MCL 460.6a, 460.6m, and 460.6t), sections 6a and 6m as amended and section 6t as added by 2016 PA 341, and by adding section 6aa.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6a. (1) A gas utility, electric utility, or steam utility
 2 shall not increase its rates and charges or alter, change, or amend
 3 any rate or rate schedules, the effect of which will be to increase
 4 the cost of services to its customers, without first receiving
 5 commission approval as provided in this section. A utility shall
 6 coordinate with the commission staff in advance of filing its
 7 general rate case application under this section to avoid resource
 8 challenges with applications being filed at the same time as
 9 applications filed under this section by other utilities. In the
 10 case of electric utilities serving more than 1,000,000 customers in
 11 this state, the commission may, if necessary, order a delay in
 12 filing an application to establish a 21-day spacing between filings
 13 of electric utilities serving more than 1,000,000 customers in this
 14 state. The utility shall place in evidence facts relied upon to
 15 support the utility's petition or application to increase its rates
 16 and charges, or to alter, change, or amend any rate or rate
 17 schedules. The commission shall require notice to be given to all
 18 interested parties within the service area to be affected, and ~~all~~
 19 **allow** interested parties ~~shall have~~ a reasonable opportunity for a
 20 full and complete hearing. A utility may use projected costs and
 21 revenues for a future consecutive 12-month period in developing its
 22 requested rates and charges. The commission shall notify the
 23 utility within 30 days after filing, whether the utility's petition

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

22 (2) If the commission has not issued an order within 180 days
23 ~~of~~**after** the filing of a complete application, the utility may
24 implement up to the amount of the proposed annual rate request
25 through equal percentage increases or decreases applied to all base
26 rates. If the utility uses projected costs and revenues for a
27 future period in developing its requested rates and charges, the
28 utility may not implement the equal percentage increases or
29 decreases before the calendar date corresponding to the start of

1 the projected 12-month period. For good cause, the commission may
2 issue a temporary order preventing or delaying a utility from
3 implementing its proposed rates or charges. If a utility implements
4 increased rates or charges under this subsection before the
5 commission issues a final order, that utility shall refund to
6 customers, with interest, any portion of the total revenues
7 collected through application of the equal percentage increase that
8 exceed the total that would have been produced by the rates or
9 charges subsequently ordered by the commission in its final order.
10 The commission shall allocate any refund required by this
11 subsection among primary customers based upon their pro rata share
12 of the total revenue collected through the applicable increase, and
13 among secondary and residential customers in a manner to be
14 determined by the commission. The rate of interest for refunds
15 ~~shall equal~~ **is** 5% plus the London interbank offered rate (LIBOR)
16 for the appropriate time period. For any portion of the refund
17 that, exclusive of interest, exceeds 25% of the annual revenue
18 increase awarded by the commission in its final order, the rate of
19 interest ~~shall be~~ **is** the authorized rate of return on the common
20 stock of the utility during the appropriate period. Any refund or
21 interest awarded under this subsection ~~shall~~ **must** not be included,
22 in whole or in part, in any application for a rate increase by a
23 utility. This subsection only applies to completed applications
24 filed with the commission before ~~the effective date of the~~
25 ~~amendatory act that added section 6t.~~ **April 20, 2017.**

26 (3) This section does not impair the commission's ability to
27 issue a show cause order as part of its rate-making authority. An
28 alteration or amendment in rates or rate schedules applied for by a
29 public utility that will not result in an increase in the cost of

1 service to its customers may be authorized and approved without
2 notice or hearing. There shall be no increase in rates based upon
3 changes in cost of fuel, purchased gas, or purchased steam unless
4 notice has been given within the service area to be affected, and
5 there has been an opportunity for a full and complete hearing on
6 the cost of fuel, purchased gas, or purchased steam. The rates
7 charged by any utility under an automatic fuel, purchased gas, or
8 purchased steam adjustment clause shall not be altered, changed, or
9 amended unless notice has been given within the service area to be
10 affected, and there has been an opportunity for a full and complete
11 hearing on the cost of the fuel, purchased gas, or purchased steam.

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

29 (5) Except as otherwise provided in this subsection and

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

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

17 (7) The commission shall, if requested by a gas utility,
18 establish load retention transportation rate schedules or approve
19 gas transportation contracts as required for the purpose of serving
20 industrial or commercial customers whose individual annual
21 transportation volumes exceed 500,000 decatherms on the gas
22 utility's system. The commission shall approve these rate schedules
23 or approve transportation contracts entered into by the utility in
24 good faith if the industrial or commercial customer has the
25 installed capability to use an alternative fuel or otherwise has a
26 viable alternative to receiving natural gas transportation service
27 from the utility, the customer can obtain the alternative fuel or
28 gas transportation from an alternative source at a price that would
29 cause them not to use the gas utility's system, and the customer,

1 as a result of their use of the system and receipt of
2 transportation service, makes a significant contribution to the
3 utility's fixed costs. The commission shall adopt accounting and
4 rate-making policies to ensure that the discounts associated with
5 the transportation rate schedules and contracts are recovered by
6 the gas utility through charges applicable to other customers if
7 the incremental costs related to the discounts are no greater than
8 the costs that would be passed on to those customers as the result
9 of a loss of the industrial or commercial customer's contribution
10 to a utility's fixed costs.

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

20 (9) If, on or before January 1, 2008, a merchant plant entered
21 into a contract with an initial term of 20 years or more to sell
22 electricity to an electric utility whose rates are regulated by the
23 commission with 1,000,000 or more retail customers in this state
24 and if, before January 1, 2008, the merchant plant generated
25 electricity under that contract, in whole or in part, from wood or
26 solid wood wastes, then the merchant plant shall, upon petition by
27 the merchant plant, and subject to the limitation set forth in
28 subsection (10), recover the amount, if any, by which the merchant
29 plant's reasonably and prudently incurred actual fuel and variable

1 operation and maintenance costs exceed the amount that the merchant
2 plant is paid under the contract for those costs. This subsection
3 does not apply to landfill gas plants, hydro plants, municipal
4 solid waste plants, or to merchant plants engaged in litigation
5 against an electric utility seeking higher payments for power
6 delivered pursuant to contract.

7 (10) The total aggregate additional amounts recoverable by
8 merchant plants under subsection (9) in excess of the amounts paid
9 under the contracts ~~shall~~**must** not exceed \$1,000,000.00 per month
10 for each affected electric utility. The \$1,000,000.00 per month
11 limit specified in this subsection ~~shall~~**must** be reviewed by the
12 commission upon petition of the merchant plant filed no more than
13 once per year and may be adjusted if the commission finds that the
14 eligible merchant plants reasonably and prudently incurred actual
15 fuel and variable operation and maintenance costs exceed the amount
16 that those merchant plants are paid under the contract by more than
17 \$1,000,000.00 per month. The annual amount of the adjustments ~~shall~~
18 **must** not exceed a rate equal to the United States ~~consumer price~~
19 ~~index~~**Consumer Price Index**. The commission shall not make an
20 adjustment unless each affected merchant plant files a petition
21 with the commission. If the total aggregate amount by which the
22 eligible merchant plants reasonably and prudently incurred actual
23 fuel and variable operation and maintenance costs determined by the
24 commission exceed the amount that the merchant plants are paid
25 under the contract by more than \$1,000,000.00 per month, the
26 commission shall allocate the additional \$1,000,000.00 per month
27 payment among the eligible merchant plants based upon the
28 relationship of excess costs among the eligible merchant plants.
29 The \$1,000,000.00 limit specified in this subsection, as adjusted,

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

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

23 (12) Subject to subsection (13), if requested by an electric
24 utility with less than 200,000 customers in this state, the
25 commission shall approve an appropriate revenue decoupling
26 mechanism that adjusts for decreases in actual sales compared to
27 the projected levels used in that utility's most recent rate case
28 that are the result of implemented energy waste reduction,
29 conservation, demand-side programs, and other waste reduction

1 measures, if the utility first demonstrates the following to the
2 commission:

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

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

7 ~~(i) One percent of its total annual retail electricity sales in~~
8 ~~the previous year.~~ **The incremental energy savings requirement of**
9 **section 77(1) of the clean and renewable energy and energy waste**
10 **reduction act, 2008 PA 295, MCL 460.1077.**

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

15 (13) The commission shall consider the aggregate revenues
16 attributable to revenue decoupling mechanisms, financial
17 incentives, and shared savings mechanisms the commission has
18 approved for an electric utility relative to energy waste
19 reduction, conservation, demand-side programs, peak load reduction,
20 and other waste reduction measures. The commission may approve an
21 alternative methodology for a revenue decoupling mechanism
22 authorized under subsection (12) ~~, or~~ a financial incentive
23 authorized under section 75 of the clean and renewable energy and
24 energy waste reduction act, 2008 PA 295, MCL 460.1075, ~~or a shared~~
25 ~~savings mechanism authorized under section 6x~~ if the commission
26 determines that the resulting aggregate revenues from those
27 mechanisms would not result in a reasonable and cost-effective
28 method to ensure that investments in energy waste reduction,
29 demand-side programs, peak load reduction, and other waste

1 reduction measures are not disfavored when compared to utility
2 supply-side investments. The commission's consideration of an
3 alternative methodology under this subsection ~~shall~~**must** be
4 conducted as a contested case ~~pursuant to~~**in accordance with**
5 chapter 4 of the administrative procedures act of 1969, 1969 PA
6 306, MCL 24.271 to ~~24.287~~**24.288**.

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

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

1 (16) As used in this section:

2 (a) "Full and complete hearing" means a hearing that provides
3 interested parties a reasonable opportunity to present and cross-
4 examine evidence and present arguments relevant to the specific
5 element or elements of the request that are the subject of the
6 hearing.

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

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

14 Sec. 6m. (1) The utility consumer representation fund is
15 created as a special fund. The state treasurer ~~shall be~~**is** the
16 custodian of the fund and shall maintain a separate account of the
17 money in the fund. The money in the fund ~~shall~~**must** be invested in
18 the bonds, notes, and other evidences of indebtedness issued or
19 insured by the United States government and its agencies, and in
20 prime commercial paper. The state treasurer shall release money
21 from the fund, including interest earned, in the manner and at the
22 time directed by the board.

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

29 (a) In the case of an energy utility company serving at least

1 100,000 customers in this state, its proportional share of
 2 ~~\$900,000.00~~ **\$1,800,000.00** adjusted annually by a factor as provided
 3 in subsection (4). This adjusted amount ~~shall become~~ **is** the new
 4 base amount to which the factor provided in subsection (4) is
 5 applied in the succeeding year. A utility's proportional share
 6 ~~shall~~ **must** be calculated by dividing the company's jurisdictional
 7 total operating revenues for the preceding year, as stated in its
 8 annual report, by the total operating revenues for the preceding
 9 year of all energy utility companies serving at least 100,000
 10 customers in this state. ~~This amount~~ **The board** shall ~~be made~~ **make**
 11 **this amount** available ~~by the board~~ for use by the attorney general
 12 for the purposes described in subsection (16).

13 (b) In the case of an energy utility company serving at least
 14 100,000 residential customers in this state, its proportional share
 15 of ~~\$650,000.00~~ **\$2,000,000.00** adjusted annually by a factor as
 16 provided in subsection (4). This adjusted amount ~~shall become~~ **is**
 17 the new base amount to which the factor provided in subsection (4)
 18 is applied in the succeeding year. A utility's proportional share
 19 ~~shall~~ **must** be calculated by dividing the company's jurisdictional
 20 gross revenues from residential tariff sales for the preceding year
 21 by the gross revenues from residential tariff sales for the
 22 preceding year of all energy utility companies serving at least
 23 100,000 residential customers in this state. This amount ~~shall~~ **must**
 24 be used for grants under subsection (10).

25 (c) In the case of an energy utility company serving fewer
 26 than 100,000 customers in this state, its proportional share of
 27 \$100,000.00 adjusted annually by a factor as provided in subsection
 28 (4). This adjusted amount ~~shall become~~ **is** the new base amount to
 29 which the factor provided in subsection (4) is applied in the

1 succeeding year. A utility's proportional share ~~shall~~**must** be
2 calculated by dividing the company's jurisdictional total operating
3 revenues for the preceding year, as stated in its annual report, by
4 the total operating revenues for the preceding year of all energy
5 utility companies serving fewer than 100,000 customers in this
6 state. ~~This amount~~**The board shall be made**~~make this amount~~
7 available ~~by the board~~ for use by the attorney general for the
8 purposes described in subsection (16).

9 (d) In the case of an energy utility company serving fewer
10 than 100,000 residential customers in this state, its proportional
11 share of \$100,000.00 adjusted annually by a factor as provided in
12 subsection (4). This adjusted amount ~~shall become~~**is** the new base
13 amount to which the factor provided in subsection (4) is applied in
14 the succeeding year. A utility's proportional share ~~shall~~**must** be
15 calculated by dividing the company's jurisdictional gross revenues
16 from residential tariff sales for the preceding year by the gross
17 revenues from residential tariff sales for the preceding year of
18 all energy utility companies serving fewer than 100,000 residential
19 customers in this state. This amount ~~shall~~**must** be used for grants
20 under subsection (10).

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

27 (4) For purposes of subsection (2), the board shall set the
28 factor at a level not to exceed the percentage increase in the
29 index known as the ~~consumer price index~~**Consumer Price Index** for

1 urban wage earners and clerical workers, select areas, all items
2 indexed, for the Detroit standard metropolitan statistical area,
3 compiled by the Bureau of Labor Statistics of the United States
4 Department of Labor, or any successor agency, that has occurred
5 between January of the preceding year and January of the year in
6 which the payment is required to be made. In the event that more
7 than 1 such index is compiled, the index yielding the largest
8 payment ~~shall be~~**is** the maximum allowable factor. The board shall
9 advise utilities of the factor.

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

15 (6) In the event of a dispute between the board and an energy
16 utility about the amount of payment due, the utility shall pay the
17 undisputed amount and, if the utility and the board cannot agree,
18 the board may initiate civil action in the circuit court for Ingham
19 County for recovery of the disputed amount. The commission shall
20 not accept or take action on an application for an energy cost
21 recovery proceeding from an energy utility subject to this section
22 that has not fully paid undisputed remittances required by this
23 section.

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

1 days approve grants and remit funds to qualified grant applicants.

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

5 (9) The costs of operation and expenses incurred by the board
6 in performing its duties under this section and section 61,
7 including remuneration to board members, ~~shall~~**must** be paid from
8 the fund. A maximum of 5% of the annual receipts of the fund may be
9 budgeted and used to pay expenses other than grants made under
10 subsection (10).

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

15 (11) The board shall create and make available to applicants
16 an application form. Each applicant shall indicate on the
17 application how the applicant meets the eligibility requirements
18 provided for in this section and how the applicant proposes to use
19 a grant from the fund to participate in 1 or more proceedings as
20 authorized in subsection (16) that have been or are expected to be
21 filed. Each applicant shall also identify on the application any
22 additional funds or resources, other than the grant funds being
23 requested, that are to be used to participate in the proceeding for
24 which the grant is being requested and how those funds or resources
25 will be utilized. The board shall receive an application requesting
26 a grant from the fund only from a nonprofit organization or a unit
27 of local government in this state. The board shall consider only
28 applications for grants containing proposals that are consistent
29 with subsections (16) and (17) and that serve the interests of

1 residential utility consumers. **The interest of residential**
2 **consumers includes, but is not limited to, considerations of**
3 **utility service in this state; the reduction of greenhouse gas**
4 **emissions from the utility sector; and the protection of public**
5 **health, equitable access to energy efficiency, weatherization,**
6 **efficient electrification measures, programs and services, and**
7 **clean energy technologies.** For purposes of making grants, the board
8 may consider energy conservation, energy waste reduction, demand
9 response, and rate design options to encourage energy conservation,
10 energy waste reduction, and demand response, as well as the
11 maintenance of adequate energy resources. The board shall not
12 consider an application that primarily benefits the applicant or a
13 service provided or administered by the applicant. The board shall
14 not consider an application from a nonprofit organization if 1 of
15 the organization's principal interests or unifying principles is
16 the welfare of a utility or its investors or employees, or the
17 welfare of 1 or more businesses or industries, other than farms not
18 owned or operated by a corporation, that receive utility service
19 ordinarily and primarily for use in connection with the profit-
20 seeking manufacture, sale, or distribution of goods or services.
21 Mere ownership of securities by a nonprofit organization or its
22 members does not disqualify an application submitted by that
23 organization.

24 (12) The board shall encourage ~~the representation of~~ **grant**
25 **making to nonprofits representing environmental justice communities**
26 **and communities with the highest energy burdens. The board shall**
27 **also encourage** the interests of identifiable types of residential
28 utility consumers whose interests may differ, including various
29 social and economic classes and areas of the state, and if

1 necessary, may make grants to more than 1 applicant whose
2 applications are related to a similar issue to achieve this type of
3 representation. In addition, the board shall consider and balance
4 the following criteria in determining whether to make a grant to an
5 applicant:

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

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

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

16 (d) The anticipated effect of the proposal contained in the
17 application on residential utility consumers, including the
18 immediate and long-term impacts of the proposal.

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

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

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

1 managed cooperatively.

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

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

10 (16) The annual receipts and interest earned, less
11 administrative costs, may be used only for participation in
12 administrative and judicial proceedings under sections 6a, 6h, 6j,
13 6s, ~~and 6t~~, **6w, and 10i, and the clean and renewable energy and**
14 **energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211,**
15 and in federal administrative and judicial proceedings that
16 directly affect the energy costs or rates paid by energy utility
17 customers in this state. Amounts that have been in the fund more
18 than 12 months may be retained in the fund for future proceedings
19 and any unexpended money in the fund ~~shall be~~**is** reserved to
20 fulfill the purposes for which it was appropriated or may be
21 returned to energy utility companies or used to offset their future
22 remittances in proportion to their previous remittances to the
23 fund, as the board and attorney general determine will best serve
24 the interests of consumers.

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

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

1 individual interests.

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

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

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

15 (19) A recipient of a grant under subsection (10) shall
16 prepare for and participate in all discussions among the parties
17 designed to facilitate settlement or narrowing of the contested
18 issues before a hearing in order to minimize litigation costs for
19 all parties.

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

28 (a) An account of all grant expenditures made by the grant
29 recipient. Expenditures ~~shall~~**must** be reported within the following

1 categories:

2 (i) Employee and contract for services costs.

3 (ii) Costs of materials and supplies.

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

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

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

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

17 (a) An account of all expenditures made by the attorney
18 general of money received under this section. Expenditures ~~shall~~
19 **must** be reported ~~within~~**in** the following categories:

20 (i) Employee and contract for services costs.

21 (ii) Costs of materials and supplies.

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

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

26 (22) On or before July 1 of each calendar year, the board
27 shall submit a detailed report to the house and senate committees
28 with jurisdiction over energy and utility policy issues regarding
29 the discharge of duties and responsibilities under this section and

1 section 6l during the preceding calendar year.

2 Sec. 6t. (1) The commission shall, ~~within 120 days of the~~
 3 ~~effective date of the amendatory act that added this section~~ **by**
 4 **August 31, 2025**, and every ~~5~~**4** years thereafter, commence a
 5 proceeding and, in consultation with the ~~Michigan agency for~~
 6 ~~energy, the department of environmental quality,~~ **environment, Great**
 7 **Lakes, and energy**, and other interested parties, do all of the
 8 following as part of the proceeding:

9 (a) Conduct an assessment of the potential for energy waste
 10 reduction in this state. ~~, based on what is economically and~~
 11 ~~technologically feasible, as well as what is reasonably achievable.~~

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

19 (c) Identify significant state or federal environmental
 20 regulations, laws, or rules and how each regulation, law, or rule
 21 would affect electric utilities in this state.

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

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

29 (f) Establish the modeling scenarios and assumptions each

1 electric utility should include in addition to its own scenarios
2 and assumptions in developing its integrated resource plan filed
3 under subsection (3), including, but not limited to, all of the
4 following:

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

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

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

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

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

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

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

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

29 (j) **Conduct an assessment of the potential for electrification**

1 of transportation, buildings, and industries consistent with
2 economy-wide elimination of greenhouse gas emissions in this state,
3 based on what is economically and technically feasible, as well as
4 what is reasonably achievable.

5 (k) Identify environmental justice communities.

6 (2) A proceeding commenced under subsection (1) ~~shall~~**must** be
7 completed within 120 days, and ~~shall~~**is** not ~~be~~ a contested case
8 under chapter 4 of the administrative procedures act of 1969, 1969
9 PA 306, MCL 24.271 to ~~24.287.~~**24.288**. The determination of the
10 modeling assumptions for integrated resource plans made under
11 subsection (1) is not considered a final order for purposes of
12 judicial review. The determinations made under subsection (1) are
13 only subject to judicial review as part of the final commission
14 order approving an integrated resource plan under this section.

15 (3) Not later than ~~2 years after the effective date of the~~
16 ~~amendatory act that added this section,~~**April 20, 2019**, each
17 electric utility whose rates are regulated by the commission shall
18 file with the commission an integrated resource plan that provides
19 a 5-year, 10-year, and 15-year projection of the utility's load
20 obligations and a plan to meet those obligations, to meet the
21 utility's requirements to provide generation reliability, including
22 meeting planning reserve margin and local clearing requirements
23 determined by the commission or the appropriate independent system
24 operator, and to meet all applicable state and federal reliability
25 and environmental regulations over the ensuing term of the plan.
26 The commission shall issue an order establishing filing
27 requirements, including application forms and instructions, and
28 filing deadlines for an integrated resource plan filed by an
29 electric utility whose rates are regulated by the commission. The

1 electric utility's plan may include alternative modeling scenarios
2 and assumptions in addition to those identified under subsection
3 (1).

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

23 (5) An integrated resource plan ~~shall~~**must** include all of the
24 following:

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

27 (b) The type of generation technology proposed for a
28 generation facility contained in the plan and the proposed capacity
29 of the generation facility, including projected fuel costs under

1 various reasonable scenarios.

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

8 ~~(d) Details regarding the utility's plan to eliminate energy
9 waste, including the total amount of energy waste reduction
10 expected to be achieved annually, the cost of the plan, and the
11 expected savings for its retail customers.~~

12 ~~(e) An analysis of how the combined amounts of renewable
13 energy and energy waste reduction achieved under the plan compare
14 to the renewable energy resources and energy waste reduction goal
15 provided in section 1 of the clean and renewable energy and energy
16 waste reduction act, 2008 PA 295, MCL 460.1001. This analysis and
17 comparison may include renewable energy and capacity in any form,
18 including generating electricity from renewable energy systems for
19 sale to retail customers or purchasing or otherwise acquiring
20 renewable energy credits with or without associated renewable
21 energy, allowed under section 27 of the clean and renewable energy
22 and energy waste reduction act, 2008 PA 295, MCL 460.1027, as it
23 existed before the effective date of the amendatory act that added
24 this section.~~

25 **(d) An analysis of how the electric utility's plan complies**
26 **with the renewable energy plan requirements and goals of section 28**
27 **of the clean and renewable energy and energy waste reduction act,**
28 **2008 PA 295, MCL 460.1028, the clean energy requirements of section**
29 **51 of the clean and renewable energy and energy waste reduction**

1 act, 2008 PA 295, MCL 460.1051, the energy waste reduction measures
2 in section 77 of the clean and renewable energy and energy waste
3 reduction act, 2008 PA 295, MCL 460.1077, and the energy storage
4 target of section 101 of the clean and renewable energy and energy
5 waste reduction act, 2008 PA 295, MCL 460.1101.

6 (e) ~~(f)~~—Projected load management and demand response savings
7 for the electric utility and the projected costs for those
8 programs.

9 (f) ~~(g)~~—Projected energy and capacity purchased or produced by
10 the electric utility from a cogeneration resource.

11 (g) ~~(h)~~—An analysis of potential new or upgraded electric
12 transmission options for the electric utility.

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

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

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

26 (k) ~~(l)~~—Projected rate **and affordability** impact for the periods
27 covered by the plan.

28 (l) ~~(m)~~—How the utility will comply with all applicable state
29 and federal environmental regulations, laws, and rules, and the

1 projected costs of complying with those regulations, laws, and
2 rules.

3 **(m)** ~~(n)~~—A forecast of the utility's peak demand and details
4 regarding the amount of peak demand reduction the utility expects
5 to achieve and the actions the utility proposes to take in order to
6 achieve that peak demand reduction.

7 **(n)** ~~(o)~~—The projected long-term firm gas transportation
8 contracts or natural gas storage the electric utility will hold to
9 provide an adequate supply of natural gas to any new generation
10 facility.

11 **(o)** **The projected long-term forecast of greenhouse gas**
12 **emissions and other pollutants from power generated or purchased by**
13 **the electric utility. The electric utility may include details on**
14 **the broader emissions impact of shifting to electrification of**
15 **transportation, buildings, and industries.**

16 **(p)** **An environmental justice impact analysis that includes a**
17 **review of the reasonably anticipated environmental justice impacts**
18 **for any plan that includes the construction of a new natural-gas-**
19 **fired generation facility and an analysis of whether the facility**
20 **complies with the requirements for clean energy systems established**
21 **in the clean and renewable energy and energy waste reduction act,**
22 **2008 PA 295, MCL 460.1001 to 460.1211. If a plan proposes retiring**
23 **or retaining 1 or more fossil fuel peaking plants, in an**
24 **environmental justice community, a review of the reasonably**
25 **anticipated environmental justice impacts for each generation**
26 **facility.**

27 (6) Before filing an integrated resource plan under this
28 section, each electric utility whose rates are regulated by the
29 commission shall issue a request for proposals to provide any new

1 supply-side generation capacity resources needed to serve the
2 utility's reasonably projected electric load, applicable planning
3 reserve margin, and local clearing requirement for its customers in
4 this state and customers the utility serves in other states during
5 the initial 3-year planning period to be considered in each
6 integrated resource plan to be filed under this section. An
7 electric utility shall define qualifying performance standards,
8 contract terms, technical competence, capability, reliability,
9 creditworthiness, past performance, and other criteria that
10 responses and respondents to the request for proposals must meet in
11 order to be considered by the utility in its integrated resource
12 plan to be filed under this section. Respondents to a request for
13 proposals may request that certain proprietary information be
14 exempt from public disclosure as allowed by the commission. A
15 utility that issues a request for proposals under this subsection
16 shall use the resulting proposals to inform its integrated resource
17 plan filed under this section and include all of the submitted
18 proposals as attachments to its integrated resource plan filing
19 regardless of whether the proposals met the qualifying performance
20 standards, contract terms, technical competence, capability,
21 reliability, creditworthiness, past performance, or other criteria
22 specified for the utility's request for proposals under this
23 section. An existing supplier of electric generation capacity
24 currently producing at least 200 megawatts of firm electric
25 generation capacity resources located in the independent system
26 operator's zone in which the utility's load is served that seeks to
27 provide electric generation capacity resources to the utility may
28 submit a written proposal directly to the commission as an
29 alternative to any supply-side generation capacity resource

1 included in the electric utility's integrated resource plan
2 submitted under this section, and has standing to intervene in the
3 contested case proceeding conducted under this section. This
4 subsection does not require an entity that submits an alternative
5 under this subsection to submit an integrated resource plan. This
6 subsection does not limit the ability of any other person to submit
7 to the commission an alternative proposal to any supply-side
8 generation capacity resource included in the electric utility's
9 integrated resource plan submitted under this section and to
10 petition for and be granted leave to intervene in the contested
11 case proceeding conducted under this section under the rules of
12 practice and procedure of the commission. The commission shall only
13 consider an alternative proposal submitted under this subsection as
14 part of its approval process under subsection (8). The electric
15 utility submitting an integrated resource plan under this section
16 is not required to adopt any proposals submitted under this
17 subsection. To the extent practicable, each electric utility is
18 encouraged, but not required, to partner with other electric
19 providers in the same local resource zone as the utility's load is
20 served in the development of any new supply-side generation
21 capacity resources included as part of its integrated resource
22 plan.

23 (7) Not later than 300 days after an electric utility files an
24 integrated resource plan under this section, the commission shall
25 state if the commission has any recommended changes, and if so,
26 describe them in sufficient detail to allow their incorporation in
27 the integrated resource plan. If the commission does not recommend
28 changes, it shall issue a final, appealable order approving or
29 denying the plan filed by the electric utility. If the commission

1 recommends changes, the commission shall set a schedule allowing
2 parties at least 15 days after that recommendation to file comments
3 regarding those recommendations, and allowing the electric utility
4 at least 30 days to consider the recommended changes and submit a
5 revised integrated resource plan that incorporates 1 or more of the
6 recommended changes. If the electric utility submits a revised
7 integrated resource plan under this section, the commission shall
8 issue a final, appealable order approving the plan as revised by
9 the electric utility or denying the plan. The commission shall
10 issue a final, appealable order no later than 360 days after an
11 electric utility files an integrated resource plan under this
12 section. Up to 150 days after an electric utility makes its initial
13 filing, the electric utility may file to update its cost estimates
14 if those cost estimates have materially changed. A utility shall
15 not modify any other aspect of the initial filing unless the
16 utility withdraws and refiles the application. A utility's filing
17 updating its cost estimates does not extend the period for the
18 commission to issue an order approving or denying the integrated
19 resource plan. ~~The commission shall review~~ **following are applicable**
20 **to an integrated resource plan filed under this section:**

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

22 **(i) Review** the integrated resource plan in a contested case
23 proceeding conducted ~~pursuant to~~ **in accordance with** chapter 4 of
24 the administrative procedures act of 1969, 1969 PA 306, MCL 24.271
25 to ~~24.287-24.288~~.

26 ~~The commission shall allow~~ **Allow** intervention by
27 interested persons including electric customers of the utility,
28 respondents to the utility's request for proposals under this
29 section, or other parties approved by the commission.

1 ~~(iii) The commission shall request~~ **Request** an advisory opinion
 2 from the department of environmental quality ~~environment, Great~~
 3 **Lakes, and energy** regarding ~~whether any potential decrease in~~
 4 ~~emissions of sulfur dioxide, oxides of nitrogen, mercury, and~~
 5 ~~particulate matter would reasonably be expected to result if the~~
 6 ~~integrated resource plan proposed by the electric utility under~~
 7 ~~subsection (3) was approved and whether the integrated resource~~
 8 ~~plan can reasonably be expected to achieve compliance with the~~
 9 ~~regulations, laws, or rules identified in subsection (1).~~ **all of the**
 10 **following:**

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

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

18 **(C) The potential impacts of proposed energy generation**
 19 **resources and of any prudent and feasible alternatives identified**
 20 **by the department on whether the plan makes adequate progress**
 21 **toward achieving the clean energy standard established in section**
 22 **51 of the clean and renewable energy and energy waste reduction**
 23 **act, 2008 PA 295, MCL 460.1051.**

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

28 **(E) Whether the plan in comparison to any prudent and feasible**
 29 **alternatives makes adequate progress toward the elimination of**

1 adverse effects on human health due to power generation in this
2 state.

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

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

7 (i) **Take** official notice of the opinion issued by the
8 department of ~~environmental quality~~ **environment, Great Lakes, and**
9 **energy** under this subsection pursuant to R 792.10428 of the
10 Michigan Administrative Code. Information submitted by the
11 department of ~~environmental quality~~ **environment, Great Lakes, and**
12 **energy** under this subsection is advisory and is not binding on
13 future determinations by the department of ~~environmental quality~~
14 **environment, Great Lakes, and energy** or the commission in any
15 proceeding or permitting process. This section does not prevent an
16 electric utility from applying for, or receiving, any necessary
17 permits from the department of ~~environmental quality~~ **environment,**
18 **Great Lakes, and energy.**

19 (ii) ~~The commission may invite~~ **Invite** other state agencies to
20 provide testimony regarding other relevant regulatory requirements
21 related to the integrated resource plan. The commission shall
22 permit reasonable discovery after an integrated resource plan is
23 filed and during the hearing in order to assist parties and
24 interested persons in obtaining evidence concerning the integrated
25 resource plan, including, but not limited to, the reasonableness
26 and prudence of the plan and alternatives to the plan raised by
27 intervening parties.

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

1 following:

2 (a) The proposed integrated resource plan represents the most
3 reasonable and prudent means of meeting the electric utility's
4 energy and capacity needs. To determine whether the integrated
5 resource plan is the most reasonable and prudent means of meeting
6 energy and capacity needs, the commission shall consider whether
7 the plan appropriately balances all of the following factors:

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

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

13 (iii) Competitive pricing.

14 (iv) Reliability.

15 (v) Commodity price risks.

16 (vi) Diversity of generation supply.

17 (vii) Whether the proposed levels of peak load reduction and
18 energy waste reduction are reasonable and ~~cost effective. Exceeding~~
19 ~~the renewable energy resources and energy waste reduction goal in~~
20 ~~section 1 of the clean and renewable energy and energy waste~~
21 ~~reduction act, 2008 PA 295, MCL 460.1001, by a utility shall not,~~
22 ~~in and of itself, be grounds for determining that the proposed~~
23 ~~levels of peak load reduction, renewable energy, and energy waste~~
24 ~~reduction are not reasonable and cost effective.~~**cost-effective.**

25 **(viii) Affordability.**

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

27 (b) To the extent practicable, the construction or investment
28 in a new or existing capacity resource in this state is completed
29 using a workforce composed of residents of this state as determined

1 by the commission. This subdivision does not apply to a capacity
2 resource that is located in a county that lies on the border with
3 another state.

4 (c) The construction and construction maintenance of new or
5 the rehabilitation of existing capacity resources in this state
6 includes using an apprenticeship program registered and certified
7 with the United States Secretary of Labor under the national
8 apprenticeship act, 29 USC 50 to 50c, and the workers employed for
9 the construction or construction maintenance of the energy facility
10 are paid a minimum wage standard not less than the wage and fringe
11 benefit rates prevailing in the locality in which the work is to be
12 performed as determined under 2023 PA 10, MCL 408.1101 to 408.1126,
13 or 40 USC 3141 to 3148, whichever provides the higher wage and
14 fringe benefit rates, and, to the extent permitted by law, the
15 entities performing the construction or construction maintenance
16 work shall enter into a project labor agreement or operate under a
17 collective bargaining agreement for the work to be performed. This
18 subdivision does not apply to an independent power producer
19 supplying power under a contract or agreement entered into in
20 accordance with the public utility regulatory policies act of 1978,
21 Public Law 95-617, as of the effective date of the amendatory act
22 that added this subdivision. As used in this subdivision, "project
23 labor agreement" means a prehire collective bargaining agreement
24 with 1 or more labor organizations that establishes the terms and
25 conditions of employment for a specific construction project and
26 does all of the following:

27 (i) Binds all contractors and subcontractors on the
28 construction project through the inclusion of appropriate
29 specifications in all relevant solicitation provisions and contract

1 documents.

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

6 (iii) Contains guarantees against strikes, lockouts, and similar
7 job disruptions.

8 (iv) Sets forth effective, prompt, and mutually binding
9 procedures for resolving labor disputes arising during the term of
10 the project labor agreement.

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

14 (vi) Complies with all state and federal laws, rules, and
15 regulations.

16 (d) The plan is consistent with the renewable energy plan
17 requirements and goals of section 28 of the clean and renewable
18 energy and energy waste reduction act, 2008 PA 295, MCL 460.1028,
19 the clean energy requirements of section 51 of the clean and
20 renewable energy and energy waste reduction act, 2008 PA 295, MCL
21 460.1051, the energy waste reduction measures in section 77 of the
22 clean and renewable energy and energy waste reduction act, 2008 PA
23 295, MCL 460.1077, and the energy storage target of section 101 of
24 the clean and renewable energy and energy waste reduction act, 2008
25 PA 295, MCL 460.1101.

26 (e) The plan promotes environmental quality and public health
27 and reasonably mitigates adverse effects on human health due to
28 power generation, with a priority on mitigating impacts and
29 prioritizing benefits to communities disproportionately impacted by

1 **pollution and other environmental harms.**

2 (f) ~~(e)~~—The plan meets the requirements of subsection (5).

3 (9) If the commission denies a utility's integrated resource
4 plan, the utility, within 60 days after the date of the final order
5 denying the integrated resource plan, may submit revisions to the
6 integrated resource plan to the commission for approval. The
7 commission shall commence a new contested case hearing under
8 chapter 4 of the administrative procedures act of 1969, 1969 PA
9 306, MCL 24.271 to ~~24.287.~~ **24.288.** Not later than 90 days after the
10 date that the utility submits the revised integrated resource plan
11 to the commission under this subsection, the commission shall issue
12 an order approving or denying, with recommendations, the revised
13 integrated resource plan if the revisions are not substantial or
14 inconsistent with the original integrated resource plan filed under
15 this section. If the revisions are substantial or inconsistent with
16 the original integrated resource plan, the commission has up to 150
17 days to issue an order approving or denying, with recommendations,
18 the revised integrated resource plan.

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

24 (11) In approving an integrated resource plan under this
25 section, the commission shall specify the costs approved for the
26 construction of or significant investment in an electric generation
27 **or energy storage** facility, the purchase of an existing electric
28 generation **or energy storage** facility, the purchase of power under
29 the terms of the power purchase **or energy storage** agreement, or

1 other investments or resources used to meet energy and capacity
2 needs that are included in the approved integrated resource plan.
3 The costs for specifically identified investments, including the
4 costs for facilities under subsection (12), included in an approved
5 integrated resource plan that are commenced within 3 years after
6 the commission's order approving the initial plan, amended plan, or
7 plan review are considered reasonable and prudent for cost recovery
8 purposes.

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

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

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

1 facility becomes commercially available.

2 (c) Demonstrated to the commission that the finalized costs
3 for the new electric generation **or energy storage** facility are not
4 significantly higher than the initially approved costs under
5 subsection (11). If the finalized costs are found to be
6 significantly higher than the initially approved costs, the
7 commission shall review and approve the proposed costs if the
8 commission determines those costs are reasonable and prudent.

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

15 (14) An electric utility shall annually, or more frequently if
16 required by the commission, file reports to the commission
17 regarding the status of any projects included in the initial 3-year
18 period of an integrated resource plan approved under subsection
19 (7).

20 (15) ~~For power~~ **If an electric provider whose rates are**
21 **regulated by the commission enters into a purchase agreements power**
22 **agreement for renewable energy resources or a third-party contract**
23 **for energy storage systems or clean energy systems that a utility**
24 ~~enters into after the effective date of the amendatory act that~~
25 ~~added this section with an entity that is not affiliated with that~~
26 utility, the commission shall ~~consider and may~~ authorize a
27 financial incentive for that utility ~~that does not exceed the~~
28 ~~utility's weighted average cost of capital.~~ **calculated as the**
29 **product of contract payments in that year multiplied by the**

1 electric provider's pretax weighted average cost of permanent
2 capital comprised of long-term debt obligations and equity of the
3 electric provider's total capital structure as determined by the
4 commission's final order in the electric provider's most recent
5 general rate case. The pretax weighted average cost of permanent
6 capital used to calculate the financial incentive must not be fixed
7 throughout the entire term of the contract at the pretax weighted
8 average cost of capital applicable in the first year and must be
9 updated based on the commission's final order in each succeeding
10 general rate case for the electric provider. The financial
11 incentive applies to each contract described in this subsection
12 from the date the contract is executed for the entire term of the
13 contract. This subsection applies to any contract entered into
14 after June 30, 2024.

15 (16) Notwithstanding any other provision of law, an order by
16 the commission approving an integrated resource plan may be
17 reviewed by the court of appeals upon a filing by a party to the
18 commission proceeding within 30 days after the order is issued. All
19 appeals of the order ~~shall~~**must** be heard and determined as
20 expeditiously as possible with lawful precedence over other
21 matters. Review on appeal ~~shall be~~**is** based solely on the record
22 before the commission and briefs to the court and is limited to
23 whether the order conforms to the constitution and laws of this
24 state and the United States and is within the authority of the
25 commission under this act.

26 (17) The commission shall include in an electric utility's
27 retail rates all reasonable and prudent costs specified under
28 subsections (11) and (12) that have been incurred to implement an
29 integrated resource plan approved by the commission. The commission

1 shall not disallow recovery of costs an electric utility incurs in
2 implementing an approved integrated resource plan, if the costs do
3 not exceed the costs approved by the commission under subsections
4 (11) and (12). If the actual costs incurred by the electric utility
5 exceed the costs approved by the commission, the electric utility
6 has the burden of proving by a preponderance of the evidence that
7 the costs are reasonable and prudent. The portion of the cost of a
8 plant, facility, power purchase agreement, or other investment in a
9 resource that meets a demonstrated need for capacity that exceeds
10 the cost approved by the commission is presumed to have been
11 incurred due to a lack of prudence. The commission may include any
12 or all of the portion of the cost in excess of the cost approved by
13 the commission if the commission finds by a preponderance of the
14 evidence that the costs are reasonable and prudent. The commission
15 shall disallow costs the commission finds have been incurred as the
16 result of fraud, concealment, gross mismanagement, or lack of
17 quality controls amounting to gross mismanagement. The commission
18 shall also require refunds with interest to ratepayers of any of
19 these costs already recovered through the electric utility's rates
20 and charges. If the assumptions underlying an approved integrated
21 resource plan materially change, or if the commission believes it
22 is unlikely that a project or program will become commercially
23 operational, an electric utility may request, or the commission on
24 its own motion may initiate, a proceeding to review whether it is
25 reasonable and prudent to complete an unfinished project or program
26 included in an approved integrated resource plan. If the commission
27 finds that completion of the project or program is no longer
28 reasonable and prudent, the commission may modify or cancel
29 approval of the project or program and unincurred costs in the

1 electric utility's integrated resource plan. Except for costs the
2 commission finds an electric utility has incurred as the result of
3 fraud, concealment, gross mismanagement, or lack of quality
4 controls amounting to gross mismanagement, if commission approval
5 is modified or canceled, the commission shall not disallow
6 reasonable and prudent costs already incurred or committed to by
7 contract by an electric utility. Once the commission finds that
8 completion of the project or program is no longer reasonable and
9 prudent, the commission may limit future cost recovery to those
10 costs that could not be reasonably avoided.

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

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

27 (20) An electric utility shall file an application for review
28 of its integrated resource plan not later than 5 years after the
29 effective date of the most recent commission order approving a

1 plan, a plan amendment, or a plan review. The commission shall
2 consider a plan review under the same process and standards
3 established in this section for review and approval of an
4 integrated resource plan. A commission order approving a plan
5 review has the same effect as an order approving an integrated
6 resource plan.

7 (21) The commission may, on its own motion or at the request
8 of the electric utility, order an electric utility to file a plan
9 review. The department of ~~environmental quality~~ **environment, Great**
10 **Lakes, and energy** may request the commission to order a plan review
11 to address material changes in environmental regulations and
12 requirements that occur after the commission's approval of an
13 integrated resource plan. An electric utility must file a plan
14 review within 270 days after the commission orders the utility to
15 file a plan review.

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

21 **Sec. 6aa. (1) The commission shall annually conduct at least 4**
22 **public meetings, hearings, townhalls, or other opportunities for**
23 **public engagement in areas geographically dispersed throughout this**
24 **state. The commission shall set the time, place, and manner of**
25 **opportunities for public engagement under this subsection to take**
26 **comments from and encourage meaningful participation by low-income**
27 **residential customers, residential customers who experience high**
28 **energy burdens, and individuals and communities likely to be**
29 **impacted by the outcome of commission proceedings. Any public**

1 meeting, hearing, townhall, or other opportunity for public
2 engagement the commission is otherwise required by law to conduct
3 may count toward fulfilling this requirement.

4 (2) Not later than June 1, 2024, the commission shall open a
5 proceeding to consider options to expand opportunities for public
6 engagement in its decision-making processes and procedures with
7 respect to all of the following:

8 (a) The accessibility and transparency of the commission's
9 decision-making processes.

10 (b) Opportunities for participation in the commission's
11 decision-making processes, especially by low-income residential
12 customers, residential customers that experience high energy
13 burdens, and individuals and communities impacted by commission
14 decisions.

15 (c) The responsiveness of commission decisions to community
16 needs and priorities.

17 (3) Not later than June 1, 2024, the commission shall open a
18 proceeding to investigate opportunities for improving the process
19 by which it reviews applications filed under section 6a.

20 Enacting section 1. This amendatory act does not take effect
21 unless all of the following bills of the 102nd Legislature are
22 enacted into law:

23 (a) Senate Bill No. 271.

24 (b) Senate Bill No. 273.