

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 273

A bill to amend 2008 PA 295, entitled
"Clean and renewable energy and energy waste reduction act,"
by amending sections 71, 73, 75, 77, 78, 91, and 93 (MCL 460.1071,
460.1073, 460.1075, 460.1077, 460.1078, 460.1091, and 460.1093),
sections 71, 73, 75, 77, 91, and 93 as amended and section 78 as
added by 2016 PA 342, and by adding sections 72, 80, and 80a; and
to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 71. ~~(1) A provider shall file a proposed energy~~
2 ~~optimization plan with the commission within the following time~~
3 ~~period:~~

4 ~~(a) For a provider whose rates are regulated by the~~
5 ~~commission, by March 3, 2009.~~

1 ~~(b) For a cooperative electric utility that has elected to~~
 2 ~~become member-regulated under the electric cooperative member-~~
 3 ~~regulation act, 2008 PA 167, MCL 460.31 to 460.39, or a municipally~~
 4 ~~owned electric utility, by April 2, 2009.~~

5 ~~(2) Energy optimization plans filed under subsection (1)~~
 6 ~~remain in effect, subject to any amendments, as~~

7 **(1) Each provider shall have an energy waste reduction**
 8 **plans.plan that has been approved as provided under section 73.**

9 **(2) ~~(3)~~**The overall goal of an energy waste reduction plan
 10 ~~shall be is~~ to help the provider's customers reduce energy waste
 11 and to reduce the future costs of provider service to customers. In
 12 particular, an electric provider's energy waste reduction plan
 13 shall be designed to delay the need for constructing new electric
 14 generating facilities and thereby protect consumers from incurring
 15 the costs of such construction.

16 **(3) ~~(4)~~**An energy waste reduction plan shall do all of the
 17 following:

18 (a) Propose a set of energy waste reduction programs that
 19 include offerings for each customer class, including low-income
 20 residential. The commission shall allow a provider flexibility to
 21 tailor the relative amount of effort devoted to each customer class
 22 based on the specific characteristics of the provider's service
 23 territory.

24 (b) Specify necessary funding levels.

25 (c) Describe how energy waste reduction program costs will be
 26 recovered as provided in section 89(2).

27 (d) Ensure, to the extent feasible, that charges collected
 28 from a particular customer rate class are spent on energy waste
 29 reduction programs that benefit that rate class.

1 (e) Demonstrate that the proposed energy waste reduction
2 programs and funding are sufficient to ensure the achievement of
3 applicable energy waste reduction standards.

4 (f) Specify whether the number of megawatt hours of
5 electricity or decatherms or MCFs of natural gas used in the
6 calculation of incremental energy savings under section 77 will be
7 weather-normalized or based on the average number of megawatt hours
8 of electricity or decatherms or MCFs of natural gas sold by the
9 provider annually during the previous 3 years to retail customers
10 in this state. Once the plan is approved by the commission, this
11 option shall not be changed.

12 (g) Demonstrate that the provider's energy waste reduction
13 programs, excluding program offerings to low-income residential
14 customers, will collectively be cost-effective.

15 (h) Provide for the practical and effective administration of
16 the proposed energy waste reduction programs. The commission shall
17 allow providers flexibility in designing their energy waste
18 reduction programs and administrative approach, including the
19 flexibility to determine the relative amount of effort to be
20 devoted to each customer class based on the specific
21 characteristics of the provider's service territory. A provider's
22 energy waste reduction programs or any part thereof, may be
23 administered, at the provider's option, by the provider, alone or
24 jointly with other providers, by a state agency, or by an
25 appropriate experienced nonprofit organization selected after a
26 competitive bid process.

27 (i) Include a process for obtaining an independent expert
28 evaluation of the actual energy waste reduction programs to verify
29 the incremental energy savings from each energy waste reduction

1 program for purposes of section 77. All ~~such~~ evaluations are
2 subject to public review and commission oversight.

3 **(4)** ~~(5)~~ Subject to subsection ~~(6)~~, ~~(5)~~, an energy waste
4 reduction plan may do 1 or more of the following:

5 (a) Utilize educational programs designed to alter consumer
6 behavior or any other measures that can reasonably be used to meet
7 the goals set forth in subsection ~~(3)~~. ~~(2)~~.

8 (b) Propose to the commission measures that are designed to
9 meet the goals set forth in subsection ~~(3)~~. ~~(2)~~ and that provide
10 additional customer benefits.

11 **(5)** ~~(6)~~ Expenditures under subsection ~~(5)~~. ~~(4)~~ shall not exceed
12 3% of the costs of implementing the energy waste reduction plan.

13 **(6)** Beginning January 1, 2025, an electricity provider shall
14 file its energy waste reduction plan as part of a customer energy
15 optimization plan. A customer energy optimization plan shall
16 include an energy waste reduction plan and may include an efficient
17 electrification measures plan. This section does not prohibit an
18 electric utility from offering transportation electrification
19 programs as approved by the commission.

20 Sec. 72. (1) Beginning January 1, 2025, an electric provider
21 may implement an efficient electrification measures plan under
22 section 71(6). The efficient electrification measures under the
23 efficient electrification measures plan shall provide health and
24 safety benefits to occupants of the premises or satisfy all of the
25 following:

26 (a) Reduce total energy consumption at the premises.

27 (b) Reduce greenhouse gas emissions due to energy use over the
28 life of the electrification measure.

29 (c) For residential and commercial customers interconnected at

1 secondary voltage, provide annual average energy cost savings.

2 (2) For the purposes of subsection (1) (a), reduction of energy
3 consumption at the customer premises shall be calculated as the
4 amount by which A exceeds B, where:

5 (a) A equals the reduction in Btu consumption of fossil fuels
6 as a result of electrification, converted to kilowatt-hour
7 equivalents by dividing by 3,412 Btus per kilowatt hour.

8 (b) B equals the increase in kilowatt hours of electricity
9 consumption resulting from the displacement of fossil fuel
10 consumption as a result of electrification.

11 (3) An efficient electrification measures program under
12 subsection (1) shall not have the effect of increasing electric
13 rates for customers that do not participate in the program.

14 (4) An electric provider may recover the costs of an efficient
15 electrification measures program.

16 Sec. 73. (1) ~~A~~ **For a provider whose rates are regulated by the**
17 **commission, the** provider's energy waste reduction plan shall be
18 filed with ~~, and~~ reviewed, ~~by, and~~ approved or rejected, **and**
19 **enforced** by the commission. ~~For a provider whose rates are~~
20 ~~regulated by the commission, the plan shall be enforced by the~~
21 ~~commission.~~ For a provider whose rates are not regulated by the
22 commission, the **provider's energy waste reduction** plan shall be
23 **filed with and reviewed and approved or rejected by its governing**
24 **body, and the plan shall be** enforced as provided in section 99.
25 Notwithstanding any other provision of this subpart, the commission
26 shall allow municipally owned electric utilities to design and
27 administer energy waste reduction plans in a manner consistent with
28 the administrative changes approved in the commission's April 17,
29 2012 order in case nos. U-16688 to U-16728 and U-17008 **or any**

1 **subsequent orders adopted by the commission.**

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

11 (a) The specific changes in customers' consumption patterns
12 that the proposed energy waste reduction plan is attempting to
13 influence.

14 (b) The cost and benefit analysis and other justification for
15 specific programs and measures included in a proposed energy waste
16 reduction plan.

17 (c) Whether the proposed energy waste reduction plan is
18 consistent with any long-range resource plan filed by the provider
19 with the commission.

20 (d) Whether the proposed energy waste reduction plan will
21 result in any unreasonable prejudice or disadvantage to any class
22 of customers.

23 (e) The extent to which the energy waste reduction plan
24 provides programs that are available, affordable, and useful to all
25 customers.

26 (3) Every 2 years after initial approval of an energy waste
27 reduction plan under subsection (2) **until 2025**, the commission
28 shall review the plan. **Subject to subsection (6), a provider whose**
29 **rates are not regulated by the commission shall adopt a plan in**

1 2025, and shall readopt the plan or adopt a new plan every 4 years
2 thereafter. Pursuant to a filing schedule established by the
3 commission, an electric provider or an electric and natural gas
4 provider whose rates are regulated by the commission shall file a
5 plan in 2025, and, after 2025, shall file a plan not less than 8
6 months after receiving a final order on an integrated resource plan
7 as provided under section 6t of 1939 PA 3, MCL 460.6t, unless
8 otherwise authorized by the commission. A natural gas provider
9 whose rates are regulated by the commission shall file a plan by
10 2025, and every 4 years thereafter, pursuant to a filing schedule
11 established by the commission. For a provider whose rates are
12 regulated by the commission, the commission shall conduct a
13 contested case hearing on the plan ~~pursuant to~~ **in accordance with**
14 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
15 to 24.328. After the hearing, the commission shall approve, with
16 any changes consented to by the provider, or reject the plan and
17 any proposed amendments to the plan.

18 (4) If a provider proposes to amend its plan at a time other
19 than during the ~~biennial~~-review process under subsection (3), the
20 provider shall file the proposed amendment with the commission.
21 After the hearing and within 90 days after the amendment is filed,
22 the commission shall approve, with any changes consented to by the
23 provider, or reject the plan and the proposed amendment or
24 amendments to the plan.

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

28 (6) ~~After~~ **Until** December 31, ~~2021,~~ **2024**, this section does not
29 apply to an electric provider whose rates are not regulated by the

1 commission.

2 Sec. 75. (1) An energy waste reduction plan of a provider
3 whose rates are regulated by the commission may authorize a
4 commensurate financial incentive for the provider for exceeding the
5 energy waste reduction standard. Payment of any financial incentive
6 authorized in the energy waste reduction plan **may be based on**
7 **performance metrics, if performance metrics are agreed to by a**
8 **provider, in addition to the savings metrics under subsections (2),**
9 **(3), and (4). The performance metrics may include, but are not**
10 **limited to, metrics for delivering low-income programs. Payment of**
11 **any financial incentive** is subject to the approval of the
12 commission.

13 (2) The total amount of a financial incentive for an electric
14 provider that achieves **the following amount of** annual incremental
15 savings, ~~of greater than 1.5%~~ **expressed as a percentage** of its
16 total annual retail electricity sales in megawatt hours in the
17 preceding year, **with an average savings life of at least 8 years,**
18 **shall not exceed the following:**

19 (a) For savings of greater than 2.17% of sales, an incentive
20 of the lesser of the following:

21 (i) 35% of customer life cycle cost reductions.

22 (ii) 25% of the provider's actual energy waste reduction
23 program expenditures for the year.

24 (b) For savings of greater than 2% but not greater than 2.17%
25 of sales, an incentive of the lesser of the following:

26 (i) 32.5% of customer life cycle cost reductions.

27 (ii) 22.5% of the provider's actual energy waste reduction
28 program expenditures for the year.

29 (c) For savings of greater than 1.83% but not greater than 2%

1 of sales, an incentive of the lesser of the following:

2 (i) 30% of customer life cycle cost reductions.

3 (ii) 20% of the provider's actual energy waste reduction
4 program expenditures for the year.

5 (d) For savings of greater than 1.66% but not greater than
6 1.83% of sales, an incentive of the lesser of the following:

7 (i) 27.5% of customer life cycle cost reductions.

8 (ii) 17.5% of the provider's actual energy waste reduction
9 program expenditures for the year.

10 (e) For savings of greater than 1.5% but not greater than
11 1.66% of sales, an incentive of the lesser of the following:

12 (i) 25% of customer life cycle cost reductions.

13 (ii) 15% of the provider's actual energy waste reduction
14 program expenditures for the year.

15 (3) The total amount of the financial incentive for a natural
16 gas provider that achieves the following amount of annual
17 incremental savings expressed as a percentage of its total annual
18 retail natural gas sales in decatherms in the preceding year, with
19 an average savings life of at least 10 years, shall not exceed the
20 following:

21 (a) For savings of greater than 1.25% of sales, an incentive
22 of the lesser of the following:

23 (i) 32.5% of customer life cycle cost reductions.

24 (ii) 22.5% of the provider's actual energy waste reduction
25 program expenditures for the year.

26 (b) For savings of greater than 1% but not greater than 1.25%
27 of sales, an incentive of the lesser of the following:

28 (i) 30% of customer life cycle cost reductions.

29 (ii) 20% of the provider's actual energy waste reduction

1 program expenditures for the year.

2 (c) For savings of greater than 0.875% but not greater than 1%
3 of sales, an incentive of the lesser of the following:

4 (i) 15% of customer life cycle cost reductions.

5 (ii) 10% of the provider's actual energy waste reduction
6 program expenditures for the year.

7 (4) A natural gas provider that spends at least 67% of its
8 total energy waste reduction budget on measures that reduce space
9 heating loads is eligible for an additional incentive of 2.5% of
10 the provider's actual energy waste reduction program expenditures
11 for the year. As used in this subsection, "measures that reduce
12 space heating loads" means improvements to any of the following:

13 (a) Building envelopes, such as air sealing, insulation, or
14 efficient windows and doors.

15 (b) Heating distribution systems and heating system controls.

16 (c) Ventilation systems.

17 (5) As used in this section, "life cycle cost reductions"
18 means the net present value of life cycle cost reductions
19 experienced by the provider's customers as a result of
20 implementation, during the year for which the financial incentive
21 is paid, of the energy waste reduction plan. ~~or a natural gas
22 provider that achieves annual incremental savings of greater than
23 1% of its total annual retail natural gas sales in decatherms in
24 the preceding year shall not exceed the lesser of the following
25 amounts: (a) 30% of the net present value of life cycle cost
26 reductions experienced by the provider's customers as a result of
27 implementation, during the year for which the financial incentive
28 is paid, of the energy waste reduction plan.~~

29 ~~(b) 20% of the provider's actual energy waste reduction~~

1 ~~program expenditures for the year.~~

2 ~~(3) The total amount of the financial incentive for an~~
3 ~~electric provider that achieves annual incremental savings of~~
4 ~~greater than 1.25% but not greater than 1.5% of its total annual~~
5 ~~retail electricity sales in megawatt hours in the preceding year or~~
6 ~~a natural gas provider that achieves annual incremental savings of~~
7 ~~greater than 0.875% but not greater than 1% of its total annual~~
8 ~~retail natural gas sales in decatherms in the preceding year shall~~
9 ~~not exceed the lesser of the following amounts:~~

10 ~~(a) 27.5% of the net present value of life-cycle cost~~
11 ~~reductions experienced by the provider's customers as a result of~~
12 ~~implementation, during the year for which the financial incentive~~
13 ~~is paid, of the energy waste reduction plan.~~

14 ~~(b) 17.5% of the provider's actual energy waste reduction~~
15 ~~program expenditures for the year.~~

16 ~~(4) The total amount of a financial incentive for an electric~~
17 ~~provider that achieves annual incremental savings of at least 1.0%~~
18 ~~but not greater than 1.25% of its total annual retail electricity~~
19 ~~sales in megawatt hours in the preceding year or a natural gas~~
20 ~~provider that achieves annual incremental savings of at least 0.75%~~
21 ~~but not greater than 0.875% of its total annual retail natural gas~~
22 ~~sales in decatherms in the preceding year shall not exceed the~~
23 ~~lesser of the following amounts:~~

24 ~~(a) 25% of the net present value of life cycle cost reductions~~
25 ~~experienced by the provider's customers as a result of~~
26 ~~implementation, during the year for which the financial incentive~~
27 ~~is paid, of the energy waste reduction plan.~~

28 ~~(b) 15% of the provider's actual energy waste reduction~~
29 ~~program expenditures for the year.~~

1 Sec. 77. (1) ~~Except as provided in section 81 and subject~~
2 **Subject** to section 97, **each year beginning 2026**, an electric
3 provider's energy waste reduction programs under this subpart shall
4 collectively achieve incremental energy savings ~~each year through~~
5 ~~2021 equivalent to 1.0% of total annual retail electricity sales in~~
6 ~~megawatt hours in the preceding year.~~**equivalent to 1.5% of total**
7 **retail electricity sales in megawatt hours in the preceding year,**
8 **with an average life of at least 8 years for energy waste reduction**
9 **measures.**

10 (2) As a goal, an electric provider's energy waste reduction
11 programs under this subpart should collectively achieve incremental
12 energy savings equivalent to 2% of total retail electricity sales
13 in megawatt hours in the preceding year, with an average life of at
14 least 8 years for energy waste reduction measures. This goal should
15 be included in the electric provider's integrated resource plan
16 modeling scenarios under section 6t of 1939 PA 3, MCL 460.6t.

17 (3) An electric provider whose rates are regulated by the
18 commission shall not include electrification measures in the
19 calculation of its energy waste reduction savings for purposes of
20 meeting the energy waste reduction standard or for determining
21 eligibility for incentives under section 75. If an electric
22 provider whose rates are not regulated by the commission implements
23 an efficient electrification measures plan as authorized by section
24 72, any reduction in energy consumption at a customer premises from
25 the conversion of fossil fuel use to electric equipment qualifies
26 as incremental energy savings for the purposes of subsections (1)
27 and (2). The reduction in energy consumption shall be calculated as
28 provided in section 72(2).

29 (4) If an electric provider has a program to promote the

1 installation of qualifying cold-climate air-source heat pumps or
2 qualifying ground-source heat pumps and includes incentives to
3 improve building envelope energy efficiency for participating
4 homes, the electric provider may count the savings from the
5 building envelope efficiency improvements toward each year's annual
6 savings requirement, regardless of the original heating fuel
7 source, subject to all of the following:

8 (a) Savings from building envelope efficiency improvements for
9 preexisting propane heating shall be credited to electricity
10 savings at a conversion rate of 27 kWh per gallon of propane saved.

11 (b) Savings from building envelope efficiency improvements for
12 preexisting oil heating shall be credited to electricity savings at
13 a conversion rate of 40 kWh per gallon of fuel oil saved.

14 (c) Savings for building envelope efficiency improvements for
15 preexisting natural gas heating shall be credited to electricity
16 savings at a conversion rate of 29 kWh per therm of gas saved.

17 (5) ~~(2)~~—If an electric provider uses load management to
18 achieve energy savings under its energy waste reduction plan, the
19 minimum energy savings required under subsection (1) shall be
20 adjusted by an amount such that the ratio of the minimum energy
21 savings to the sum of actual expenditures for implementing its
22 approved energy waste reduction plan and the load management
23 expenditures remains constant.

24 (6) A natural gas provider may claim natural gas savings
25 resulting from investments in qualifying efficient electrification
26 measures, or investments in building envelope efficiency
27 improvements made as part of projects involving qualifying
28 efficient electrification measures, if the savings are not also
29 counted toward an electric utility's savings goals. When a natural

1 gas provider and an electric provider are both involved in a
 2 qualifying efficient electrification measures project, including a
 3 project that involves both building envelope efficiency and
 4 qualifying efficient electrification measures, the providers shall
 5 work together to reach an agreement on how savings claims will be
 6 allocated between the providers. The commission may adopt standards
 7 or default provisions for the allocation of savings claims between
 8 providers that apply if the providers are unable to reach an
 9 agreement.

10 (7) ~~(3)~~—Subject to section 97, a natural gas provider's energy
 11 waste reduction program under this subpart shall achieve ~~annual—the~~
 12 following:

13 (a) **Each year through 2025, incremental energy savings each**
 14 ~~year~~ equivalent to 0.75% of total ~~annual~~ retail natural gas sales
 15 in decatherms or equivalent MCFs in the preceding year.

16 (b) **Each year beginning 2026, incremental energy savings**
 17 **equivalent to 0.875% of total retail natural gas sales in**
 18 **decatherms or equivalent MCFs in the preceding year with an average**
 19 **savings life of at least 10 years.**

20 (8) ~~(4)~~—Incremental energy savings under subsection (1) or ~~(3)~~
 21 (7) for a year shall be determined for a provider by adding the
 22 energy savings expected to be achieved by energy waste reduction
 23 measures implemented during that year under any energy waste
 24 reduction programs consistent with the provider's energy waste
 25 reduction plan. The energy savings expected to be achieved shall be
 26 determined using a savings database or other savings measurement
 27 approach as determined reasonable by the commission.

28 (9) ~~(5)~~—For purposes of calculations under subsection (1) or
 29 ~~(3), (7)~~, total ~~annual~~ retail electricity or natural gas sales in a

1 year shall be based on 1 of the following at the option of the
2 provider as specified in its energy waste reduction plan:

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

7 (b) The average number of megawatt hours or decatherms or
8 equivalent MCFs sold by the provider during the 3 years preceding
9 the year for which incremental energy savings are being calculated.

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

19 **(11)** ~~(7)~~ Renewable energy credits, load management that
20 reduces overall energy usage, or a combination thereof shall not be
21 used by a provider to meet more than 10% of the energy waste
22 reduction standard. Substitutions for energy waste reduction
23 credits shall be made at the rate of 1 renewable energy credit per
24 energy waste reduction credit.

25 Sec. 78. ~~(1) By January 1, 2022, and every 2 years thereafter,~~
26 ~~an electric provider whose rates are regulated by the commission~~
27 ~~shall file an energy waste reduction plan amendment with the~~
28 ~~commission under section 73 pursuant to a filing schedule~~
29 ~~established by the commission. The amendment shall detail the~~

~~1 amount of energy waste reduction the electric provider proposes to~~
~~2 achieve for the succeeding 2-year period. If the electric provider~~
~~3 whose rates are regulated by the commission proposes a level of~~
~~4 energy waste reduction that is higher than the level specified in~~
~~5 the provider's current energy waste reduction plan, the commission~~
~~6 may approve the proposed higher level if the commission finds that~~
~~7 it is the most reasonable and prudent. If the electric provider~~
~~8 whose rates are regulated by the commission proposes a level of~~
~~9 energy waste reduction that is lower than the level specified in~~
~~10 the provider's current energy waste reduction plan, the commission~~
~~11 may approve the proposed lower level if the commission finds that~~
~~12 it is the most reasonable and prudent. If the commission finds that~~
~~13 the proposed lower level of energy waste reduction is not the most~~
~~14 reasonable and prudent, the level of energy waste reduction to be~~
~~15 achieved by the electric provider whose rates are regulated by the~~
~~16 commission for the succeeding 2-year period under the energy waste~~
~~17 reduction plan shall be the same as the level specified in the~~
~~18 provider's current energy waste reduction plan.~~

~~19 (1) (2) If over a 2-year period an electric provider whose~~
~~20 rates are regulated by the commission cannot achieve the level of~~
~~21 energy waste reduction provided for in the energy waste reduction~~
~~22 plan pursuant to subsection (1) **standard** in a cost-effective~~
~~23 manner, the provider may petition the commission in a contested~~
~~24 case hearing under section 73-73(3) to establish an alternative~~
~~25 energy waste reduction level for that provider.~~

~~26 (2) (3) If over a 2-year period a natural gas provider cannot~~
~~27 achieve the energy waste reduction standard in a cost-effective~~
~~28 manner, the natural gas provider may petition the commission to~~
~~29 establish an alternative energy waste reduction standard for that~~

1 provider.

2 **(3)** ~~(4)~~—A petition filed pursuant to subsection ~~(3)~~—**(2)** shall
3 do all of the following:

4 (a) Identify the efforts taken by the natural gas provider to
5 meet the energy waste reduction standard.

6 (b) Explain why the energy waste reduction standard cannot
7 reasonably and cost-effectively be achieved.

8 (c) Propose a revised energy waste reduction standard to be
9 achieved by the natural gas provider.

10 **(4)** ~~(5)~~—If, based on a review of the petition filed under
11 subsection ~~(3)~~—**(2)**, the commission determines that the natural gas
12 provider has been unable to reasonably and cost-effectively achieve
13 the energy waste reduction standard, the commission shall revise
14 the energy waste reduction standard as applied to the natural gas
15 provider to a level that can reasonably and cost-effectively be
16 achieved.

17 **Sec. 80. (1) Electric providers and natural gas providers**
18 **shall offer low-income energy waste reduction programs to assist**
19 **low-income residential customers in both single-family and**
20 **multifamily households.**

21 **(2) A low-income energy waste reduction program shall be**
22 **designed and funded with the goal that low-income residential**
23 **customers achieve levels of energy waste reduction similar to or**
24 **greater than the levels of energy waste reduction of other**
25 **residential customers. Low-income energy waste reduction programs**
26 **shall include investments in health and safety measures appropriate**
27 **and necessary to address health and safety conditions that are**
28 **impediments to implementing energy waste reduction measures for**
29 **low-income residential customers. Providers shall work to deliver**

1 and coordinate low-income energy waste reduction programs and other
2 offerings that serve and maximize the benefits to low-income
3 residential customers. Energy savings shall be attributed to health
4 and safety measure spending at the average energy waste reduction
5 program savings level and in proportion to the amount of health and
6 safety measure spending relative to overall energy waste reduction
7 program spending.

8 (3) An electric provider's annual expenditures to implement
9 the low-income energy waste reduction programs and measures shall
10 be at least 25% of total energy waste reduction program spending.
11 If an electric provider's expenditures on the effective date of the
12 amendatory act that added this section are below this level, the
13 electric provider shall annually increase expenditures to equal or
14 exceed this level by January 1, 2029.

15 (4) A natural gas provider's annual expenditures to implement
16 the low-income energy waste reduction programs and measures shall
17 be at least 35% of total energy waste reduction program spending.
18 If a natural gas provider's expenditures on the effective date of
19 the amendatory act that added this section are below this level,
20 the natural gas provider shall annually increase expenditures to
21 equal or exceed this level by January 1, 2029.

22 (5) Providers shall minimize barriers to participation in low-
23 income energy waste reduction programs and reduce overly burdensome
24 verification processes. Any of the following constitute eligible
25 income verification:

26 (a) Proof of participation in other low-income qualified
27 programs.

28 (b) Location in a low-income census tract.

29 (c) Other methods to be determined by the commission.

1 Sec. 80a. (1) To the extent practicable, a provider that
 2 serves more than 50,000 customers shall invest in hiring and
 3 developing a diverse energy waste reduction workforce and
 4 contractors capable of delivering energy waste reduction measures
 5 such as building envelopes, heat pumps, health and safety measures,
 6 and other advanced efficiency and related measures.

7 (2) Workforce and contractor development efforts shall focus
 8 on hiring and developing, for work in energy waste reduction and
 9 related careers, workers in or from low-income and environmental
 10 justice communities and workers formerly employed in transition-
 11 impacted industries such as fossil fuel energy workers who have
 12 employment tied to generation, transportation, and refinement,
 13 internal combustion engine vehicle workers, workers in the supply
 14 chain for internal combustion engines vehicles, and workers in the
 15 building and trades as well as any other affected workers. The
 16 development efforts shall follow generally recognized best
 17 practices, including apprenticeship programs registered and
 18 certified with the United States Secretary of Labor under the
 19 national apprenticeship act, 29 USC 50 to 50c.

20 (3) Each provider shall annually report to the commission on
 21 its workforce and contractor development efforts described under
 22 subsection (2).

23 Sec. 91. (1) Except for section 89(5), sections 71 to 89 do
 24 not apply to a provider that ~~each year pays not less than 2.0% of~~
 25 ~~total utility sales revenues for the second year preceding,~~
 26 ~~including electricity or natural gas commodity costs,~~ **makes an**
 27 **alternative compliance payment in an amount determined, and** to an
 28 independent energy waste reduction program administrator selected
 29 by the commission. **The commission shall determine the amount of an**

1 alternative compliance payment under this subsection.

2 (2) The commission shall initiate a proceeding by July 1, 2024
 3 to adopt a framework energy waste reduction program that shall be
 4 utilized by the independent energy waste reduction program
 5 administrator in administering a program on behalf of a provider,
 6 and to determine the appropriate amount of alternative compliance
 7 payments for effective administration of energy waste reduction
 8 programs consistent with that framework. The proceeding shall be
 9 conducted as a contested case in accordance with the administrative
 10 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The
 11 framework energy waste reduction program and the appropriate amount
 12 of alternative compliance payments adopted under this subsection
 13 may be periodically revised by the commission after a contested
 14 case proceeding.

15 (3) ~~(2)~~—An alternative compliance payment received from a
 16 provider by the energy waste reduction program administrator under
 17 subsection (1) shall be used to administer energy efficiency
 18 programs for the provider.

19 (4) ~~(3)~~—The commission shall allow a provider to recover an
 20 alternative compliance payment under subsection (1). ~~This cost~~
 21 ~~shall~~ **The alternative compliance payment shall** be recovered from
 22 residential customers by volumetric charges, from all other metered
 23 customers by per-meter charges, and from unmetered customers by an
 24 appropriate charge. Fixed, per-meter charges under this subsection
 25 may vary by rate class. ~~Charges under this subsection may be~~
 26 ~~itemized on utility bills, but shall not be itemized on or after~~
 27 ~~January 1, 2021.~~

28 (5) ~~(4)~~—A provider's alternative compliance payment under
 29 subsection (1) shall ~~only~~ be used **only** to fund energy waste

1 reduction programs for that provider's customers. To the extent
 2 feasible, charges collected from a particular customer rate class
 3 and paid to the energy waste reduction program administrator under
 4 subsection (1) shall be devoted to energy waste reduction programs
 5 and services for that rate class.

6 **(6)** ~~(5)~~—Money paid to the energy waste reduction program
 7 administrator under subsection (1) and not spent by the
 8 administrator that year ~~shall remain~~ **remains** available for
 9 expenditure the following year, subject to the requirements of
 10 subsection ~~(4)~~ **(5)**.

11 **(7)** ~~(6)~~—The commission shall select a qualified nonprofit
 12 organization to serve as an energy waste reduction program
 13 administrator under this section, through a competitive bid
 14 process.

15 **(8)** **The commission shall require that the energy waste**
 16 **reduction program administrator submit reports, on behalf of each**
 17 **provider that makes an alternative compliance payment, to the**
 18 **commission in compliance with section 97.**

19 **(9)** ~~(7)~~—The commission shall arrange for a biennial
 20 independent audit of the energy waste reduction program
 21 administrator.

22 Sec. 93. (1) An eligible electric customer is exempt from
 23 charges the customer would otherwise incur as an electric customer
 24 under ~~section~~ **sections 72, 89, ~~or~~ and 91** if the customer files with
 25 its electric provider and implements a self-directed energy waste
 26 reduction plan as provided in this section.

27 (2) Subject to subsection (3), an electric customer is not
 28 eligible under subsection (1) unless it is a commercial or
 29 industrial electric customer and had an annual peak demand in the

1 preceding year of at least 1 megawatt in the aggregate at all sites
2 to be covered by the self-directed plan.

3 (3) The eligibility requirements of subsection (2) do not
4 apply to a commercial or industrial customer that installs or
5 modifies an electric energy efficiency improvement under a property
6 assessed clean energy program pursuant to the property assessed
7 clean energy act, 2010 PA 270, MCL 460.931 to 460.949.

8 (4) The commission shall by order establish the rates, terms,
9 and conditions of service for customers related to this subpart.

10 (5) The commission shall by order do all of the following:

11 (a) Require a customer to utilize the services of an energy
12 waste reduction service company to develop and implement a self-
13 directed plan. This subdivision does not apply to a customer that
14 had an annual peak demand in the preceding year of at least 2
15 megawatts at each site to be covered by the self-directed plan or
16 10 megawatts in the aggregate at all sites to be covered by the
17 self-directed plan.

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

20 (c) Provide a mechanism to cover the costs of the low-income
21 energy waste reduction program under section 89.

22 (6) All of the following apply to a self-directed energy waste
23 reduction plan under subsection (1):

24 (a) The self-directed plan shall be a multiyear plan for an
25 ongoing energy waste reduction program.

26 (b) The self-directed plan shall provide for aggregate energy
27 savings that each year meet or exceed the energy waste reduction
28 standards based on the electricity purchases in the previous year
29 for the site or sites covered by the self-directed plan.

1 (c) Under the self-directed plan, energy waste reduction shall
2 be calculated based on annual electricity usage. Annual electricity
3 usage shall be normalized so that none of the following are
4 included in the calculation of the percentage of incremental energy
5 savings:

6 (i) Changes in electricity usage because of changes in business
7 activity levels not attributable to energy waste reduction.

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

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

16 (e) The self-directed plan shall outline how the customer
17 intends to achieve the incremental energy savings specified in the
18 self-directed plan.

19 (7) A self-directed energy waste reduction plan shall be
20 incorporated into the relevant electric provider's energy waste
21 reduction plan. The self-directed plan and information submitted by
22 the customer under subsection ~~(10)~~ **(9)** are confidential and exempt
23 from disclosure under the freedom of information act, 1976 PA 442,
24 MCL 15.231 to 15.246. Projected energy savings from measures
25 implemented under a self-directed plan shall be attributed to the
26 relevant provider's energy waste reduction programs for the
27 purposes of determining annual incremental energy savings achieved
28 by the provider under section 77. ~~or 81, as applicable.~~

29 (8) Once a customer begins to implement a self-directed plan

1 at a site covered by the self-directed plan, that site is exempt
2 from energy waste reduction program charges under ~~section~~**sections**
3 **72, 89, ~~or~~ and 91** and is not eligible to participate in the
4 relevant electric provider's energy waste reduction programs.

5 (9) A customer implementing a self-directed energy waste
6 reduction plan under this section shall annually submit to the
7 customer's electric provider a brief report documenting the energy
8 efficiency measures taken under the self-directed plan during the
9 previous year, and the corresponding energy savings that will
10 result. The report shall provide sufficient information for the
11 provider and the commission to monitor progress toward the goals in
12 the self-directed plan and to develop reliable estimates of the
13 energy savings that are being achieved from self-directed plans.
14 The customer report shall indicate the level of incremental energy
15 savings achieved for the year covered by the report and whether
16 that level of incremental energy savings meets the goal set forth
17 in the customer's self-directed plan. If a customer submitting a
18 report under this subsection wishes to amend its self-directed
19 plan, the customer shall submit with the report an amended self-
20 directed plan. A report under this subsection shall be accompanied
21 by an affidavit from a knowledgeable official of the customer that
22 the information in the report is true and correct to the best of
23 the official's knowledge and belief. If the customer has retained
24 an independent energy waste reduction service company, the
25 requirements of this subsection shall be met by the energy waste
26 reduction service company.

27 (10) An electric provider shall provide an annual report to
28 the commission that identifies customers implementing self-directed
29 energy waste reduction plans and summarizes the results achieved

1 cumulatively under those self-directed plans. The commission may
2 request additional information from the electric provider. If the
3 commission has sufficient reason to believe the information is
4 inaccurate or incomplete, it may request additional information
5 from the customer to ensure accuracy of the report.

6 (11) If the commission determines after a contested case
7 hearing that the minimum energy waste reduction goals under
8 subsection (6) (b) have not been achieved at the sites covered by a
9 self-directed plan, in aggregate, the commission shall order the
10 customer or customers collectively to pay to this state an amount
11 calculated as follows:

12 (a) Determine the proportion of the shortfall in achieving the
13 minimum energy waste reduction goals under subsection (6) (b).

14 (b) Multiply the figure under subdivision (a) by the energy
15 waste reduction charges from which the customer or customers
16 collectively were exempt under subsection (1).

17 (c) Multiply the product under subdivision (b) by a number not
18 less than 1 or greater than 2, as determined by the commission
19 based on the reasons for failure to meet the minimum energy waste
20 reduction goals.

21 (12) If a customer has submitted a self-directed plan to an
22 electric provider, the customer, the customer's energy waste
23 reduction service company, if applicable, or the electric provider
24 shall provide a copy of the self-directed plan to the commission
25 upon request.

26 (13) By September 1, 2010, following a public hearing, the
27 commission shall establish an approval process for energy waste
28 reduction service companies. The approval process shall ensure that
29 energy waste reduction service companies have the expertise,

1 resources, and business practices to reliably provide energy waste
2 reduction services that meet the requirements of this section. The
3 commission may adopt by reference the past or current standards of
4 a national or regional certification or licensing program for
5 energy waste reduction service companies. However, the approval
6 process shall also provide an opportunity for energy waste
7 reduction service companies that are not recognized by such a
8 program to be approved by posting a bond in an amount determined by
9 the commission and meeting any other requirements adopted by the
10 commission for the purposes of this subsection. The approval
11 process for energy waste reduction service companies shall require
12 adherence to a code of conduct governing the relationship between
13 energy waste reduction service companies and electric providers.

14 (14) The department of licensing and regulatory affairs shall
15 maintain on the department's website a list of energy waste
16 reduction service companies approved under subsection (13).

17 Enacting section 1. Section 6x of 1939 PA 3, MCL 460.6x, is
18 repealed.