HOUSE BILL NO. 4760


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 6, 6a, 6m, 6t, and 11 (MCL 460.6, 460.6a, 460.6m, 460.6t, and 460.11), section 6 as amended by 2005 PA 190 and sections 6a, 6m, and 11 as amended and section 6t as added by 2016 PA 341, and by adding section 6aa.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 6. (1) The public service commission is vested with complete power and jurisdiction to regulate all public utilities in the state except a municipally owned utility, the owner of a renewable resource power production facility as provided in section 6d, and except as otherwise restricted by law. The public service commission is vested with the power and jurisdiction to regulate all rates, fares, fees, charges, services, rules, conditions of service, and all other matters pertaining to the formation, operation, or direction of public utilities. The public service commission is further granted the power and jurisdiction to hear and pass upon all matters pertaining to, necessary, or incident to the regulation of public utilities, including electric light and power companies, whether private, corporate, or cooperative; water, telegraph, oil, gas, and pipeline companies; motor carriers; private wastewater treatment facilities; and all public transportation and communication agencies other than railroads and railroad companies.

(2) A private, investor-owned wastewater utility may apply to
the commission for rate regulation. If an application is filed under this subsection, the commission is vested with the specific grant of jurisdictional authority to regulate the rates, fares, fees, and charges of private, investor-owned wastewater utilities. As used in this subsection, "private, investor-owned wastewater utilities" means a utility that delivers wastewater treatment services through a sewage system and the physical assets of which are wholly owned by an individual or group of individual shareholders.

(3) In executing its duties, powers, and regulatory function under this act, the commission shall prioritize the following goals:

(a) The reliability, safety, and resilience of the utility system in this state.

(b) Service quality in this state.

(c) The affordability of utility service in this state. As used in this subdivision, "affordability" includes, but is not limited to, all of the following:

(i) The ability of residential customers in this state, including low-income residential customers, to access safe and reliable utility services at a price the customer can pay without compromising the customer's ability to meet other essential needs.

(ii) Any definitions of affordability developed by the energy affordability and accessibility collaborative or other relevant working groups and adopted by the commission.

(d) Equitable access to energy efficiency, weatherization, home electrification programs and services, and clean energy technologies.

(e) Minimization of harm and prioritization of benefits in
communities consisting predominately of minorities or households below the poverty line where factors, including socioeconomic stressors, disproportionate cost and environmental burdens, vulnerability to environmental degradation, and lack of accessibility in public participation, may act cumulatively to affect public health and the environment and contribute to persistent disparities.

(f) Compliance with state public policy goals for the utility sector, including the goals of meeting 60% of this state's electricity needs using renewable energy by 2030 and meeting 100% of this state's electricity needs using carbon-free energy by 2035.

(g) Overall cost-effectiveness and nondiscrimination in providing utility service in this state.

(4) Upon complaint, on its own motion, or in any contested proceeding, including, but not limited to, any general rate case, the commission may do any of the following:

(a) Direct a public utility to establish or undertake any policy, practice, or service that is reasonable, prudent, and in the public interest, including any policy, practice, or service that falls within the management powers or decisions of the public utility.

(b) Prohibit or direct a utility to cease any policy, practice, or service that is unreasonable, imprudent, discriminatory, or prejudicial to the public interest, including any policy, practice, or service that falls within the management powers or decisions of the public utility.

Sec. 6a. (1) A gas utility, electric utility, or steam utility shall not increase its rates and charges or alter, change, or amend any rate or rate schedules, the effect of which will be to increase
the cost of services to its customers, without first receiving commission approval as provided in this section. A utility shall coordinate with the commission staff in advance of filing its general rate case application under this section to avoid resource challenges with applications being filed at the same time as applications filed under this section by other utilities. In the case of electric utilities serving more than 1,000,000 customers in this state, the commission may, if necessary, order a delay in filing an application to establish a 21-day spacing between filings of electric utilities serving more than 1,000,000 customers in this state. The utility shall place in evidence facts relied upon to support the utility's petition or application to increase its rates and charges, or to alter, change, or amend any rate or rate schedules. The commission shall require notice to be given to all interested parties within the service area to be affected, and all interested parties shall have a reasonable opportunity for a full and complete hearing. A utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges. The commission shall notify the utility within 30 days after filing, whether the utility's petition or application is complete. A petition or application is considered complete if it complies with the rate application filing forms and instructions adopted under subsection (8). If the application is not complete, the commission shall notify the utility of all information necessary to make that filing complete. If the commission has not notified the utility within 30 days of whether the utility's petition or application is complete, the application is considered complete. Concurrently with filing a complete application, or at any time after filing a complete application, a
gas utility serving fewer than 1,000,000 customers in this state may file a motion seeking partial and immediate rate relief. After providing notice to the interested parties within the service area to be affected and affording interested parties a reasonable opportunity to present written evidence and written arguments relevant to the motion seeking partial and immediate rate relief, the commission shall make a finding and enter an order granting or denying partial and immediate relief within 180 days after the motion seeking partial and immediate rate relief was submitted. The commission has 12 months to issue a final order in a case in which a gas utility has filed a motion seeking partial and immediate rate relief. In approving a utility's petition or application to increase its rates and charges, or to alter, change, or amend any rate or rate schedules, the commission must consider and address whether the petition or application promotes the public interest. In assessing whether the petition or application promotes the public interest, the commission shall consider the goals in section 6(3) and any significant issues raised in a public input hearing under section 6aa.

(2) If the commission has not issued an order within 180 days of the filing of a complete application, the utility may implement up to the amount of the proposed annual rate request through equal percentage increases or decreases applied to all base rates. If the utility uses projected costs and revenues for a future period in developing its requested rates and charges, the utility may not implement the equal percentage increases or decreases before the calendar date corresponding to the start of the projected 12-month period. For good cause, the commission may issue a temporary order preventing or delaying a utility from
implementing its proposed rates or charges. If a utility implements increased rates or charges under this subsection before the commission issues a final order, that utility shall refund to customers, with interest, any portion of the total revenues collected through application of the equal percentage increase that exceed the total that would have been produced by the rates or charges subsequently ordered by the commission in its final order. The commission shall allocate any refund required by this subsection among primary customers based upon their pro rata share of the total revenue collected through the applicable increase, and among secondary and residential customers in a manner to be determined by the commission. The rate of interest for refunds shall equal 5% plus the London interbank offered rate (LIBOR) for the appropriate time period. For any portion of the refund that, exclusive of interest, exceeds 25% of the annual revenue increase awarded by the commission in its final order, the rate of interest shall be the authorized rate of return on the common stock of the utility during the appropriate period. Any refund or interest awarded under this subsection shall not be included, in whole or in part, in any application for a rate increase by a utility. This subsection only applies to completed applications filed with the commission before the effective date of the amendatory act that added section 6t, April 20, 2017.

(3) This section does not impair the commission's ability to issue a show cause order as part of its rate-making authority. An alteration or amendment in rates or rate schedules applied for by a public utility that will not result in an increase in the cost of service to its customers may be authorized and approved without notice or hearing. There shall be no increase in rates based upon
changes in cost of fuel, purchased gas, or purchased steam unless notice has been given within the service area to be affected, and there has been an opportunity for a full and complete hearing on the cost of fuel, purchased gas, or purchased steam. The rates charged by any utility under an automatic fuel, purchased gas, or purchased steam adjustment clause shall not be altered, changed, or amended unless notice has been given within the service area to be affected, and there has been an opportunity for a full and complete hearing on the cost of the fuel, purchased gas, or purchased steam.

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

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

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

(7) The commission shall, if requested by a gas utility, establish load retention transportation rate schedules or approve gas transportation contracts as required for the purpose of serving industrial or commercial customers whose individual annual transportation volumes exceed 500,000 decatherms on the gas utility's system. The commission shall approve these rate schedules or approve transportation contracts entered into by the utility in good faith if the industrial or commercial customer has the installed capability to use an alternative fuel or otherwise has a viable alternative to receiving natural gas transportation service from the utility, the customer can obtain the alternative fuel or gas transportation from an alternative source at a price that would cause them not to use the gas utility's system, and the customer, as a result of their use of the system and receipt of transportation service, makes a significant contribution to the
utility's fixed costs. The commission shall adopt accounting and rate-making policies to ensure that the discounts associated with the transportation rate schedules and contracts are recovered by the gas utility through charges applicable to other customers if the incremental costs related to the discounts are no greater than the costs that would be passed on to those customers as the result of a loss of the industrial or commercial customer's contribution to a utility's fixed costs.

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

(9) If, on or before January 1, 2008, a merchant plant entered into a contract with an initial term of 20 years or more to sell electricity to an electric utility whose rates are regulated by the commission with 1,000,000 or more retail customers in this state and if, before January 1, 2008, the merchant plant generated electricity under that contract, in whole or in part, from wood or solid wood wastes, then the merchant plant shall, upon petition by the merchant plant, and subject to the limitation set forth in subsection (10), recover the amount, if any, by which the merchant plant's reasonably and prudently incurred actual fuel and variable operation and maintenance costs exceed the amount that the merchant plant is paid under the contract for those costs. This subsection
does not apply to landfill gas plants, hydro plants, municipal
solid waste plants, or to merchant plants engaged in litigation
against an electric utility seeking higher payments for power
delivered pursuant to contract.

(10) The total aggregate additional amounts recoverable by
merchant plants under subsection (9) in excess of the amounts paid
under the contracts shall not exceed $1,000,000.00 per month
for each affected electric utility. The $1,000,000.00 per month
limit specified in this subsection shall be reviewed by the
commission upon petition of the merchant plant filed no more than
once per year and may be adjusted if the commission finds that the
eligible merchant plants reasonably and prudently incurred actual
fuel and variable operation and maintenance costs exceed the amount
that those merchant plants are paid under the contract by more than
$1,000,000.00 per month. The annual amount of the adjustments shall
not exceed a rate equal to the United States consumer price
index. The commission shall not make an
adjustment unless each affected merchant plant files a petition
with the commission. If the total aggregate amount by which the
eligible merchant plants reasonably and prudently incurred actual
fuel and variable operation and maintenance costs determined by the
commission exceed the amount that the merchant plants are paid
under the contract by more than $1,000,000.00 per month, the
commission shall allocate the additional $1,000,000.00 per month
payment among the eligible merchant plants based upon the
relationship of excess costs among the eligible merchant plants.
The $1,000,000.00 limit specified in this subsection, as adjusted,
does not apply to actual fuel and variable operation and
maintenance costs that are incurred due to changes in federal or
state environmental laws or regulations that are implemented after October 6, 2008. The $1,000,000.00 per month payment limit under this subsection does not apply to merchant plants eligible under subsection (9) whose electricity is purchased by a utility that is using wood or wood waste or fuels derived from those materials for fuel in their power plants. As used in this subsection, "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

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

(12) Subject to subsection (13), if requested by an electric utility with less than 200,000 customers in this state, the commission shall approve an appropriate revenue decoupling mechanism that adjusts for decreases in actual sales compared to the projected levels used in that utility's most recent rate case that are the result of implemented energy waste reduction, conservation, demand-side programs, and other waste reduction measures, if the utility first demonstrates the following to the commission:
(a) That the projected sales forecast in the utility's most recent rate case is reasonable.

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

   (i) One percent of its total annual retail electricity sales in the previous year.

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

(13) The commission shall consider the aggregate revenues attributable to revenue decoupling mechanisms, financial incentives, and shared savings mechanisms the commission has approved for an electric utility relative to energy waste reduction, conservation, demand-side programs, peak load reduction, and other waste reduction measures. The commission may approve an alternative methodology for a revenue decoupling mechanism authorized under subsection (12), a financial incentive authorized under section 75 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1075, or a shared savings mechanism authorized under section 6x if the commission determines that the resulting aggregate revenues from those mechanisms would not result in a reasonable and cost-effective method to ensure that investments in energy waste reduction, demand-side programs, peak load reduction, and other waste reduction measures are not disfavored when compared to utility supply-side investments. The commission's consideration of an alternative methodology under this subsection shall must be conducted as a contested case pursuant to in accordance with chapter 4 of the administrative procedures act.
(14) Within 1 year after the effective date of the amendatory act that added this subsection, by April 20, 2018, the commission shall conduct a study on an appropriate tariff reflecting equitable cost of service for utility revenue requirements for customers who participate in a net metering program or distributed generation program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. In any rate case filed after June 1, 2018, the commission shall approve such a tariff for inclusion in the rates of all customers participating in a net metering or distributed generation program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. A tariff established under this subsection does not apply to customers participating in a net metering program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211, before the date that the commission establishes a tariff under this subsection, who continues to participate in the program at their current site or facility.

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

(16) As used in this section:

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

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

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

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

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

(a) In the case of an energy utility company serving at least
100,000 customers in this state, its proportional share of
$900,000.00 adjusted annually by a factor as provided
in subsection (4). This adjusted amount shall become the new
base amount to which the factor provided in subsection (4) is
applied in the succeeding year. A utility's proportional share
shall be calculated by dividing the company's jurisdictional
total operating revenues for the preceding year, as stated in its
annual report, by the total operating revenues for the preceding year of all energy utility companies serving at least 100,000 customers in this state. This amount shall be made available by the board for use by the attorney general for the purposes described in subsection (16).

(b) In the case of an energy utility company serving at least 100,000 residential customers in this state, its proportional share of $650,000.00–$1,300,000.00 adjusted annually by a factor as provided in subsection (4). This adjusted amount shall become the new base amount to which the factor provided in subsection (4) is applied in the succeeding year. A utility's proportional share shall be calculated by dividing the company's jurisdictional gross revenues from residential tariff sales for the preceding year by the gross revenues from residential tariff sales for the preceding year of all energy utility companies serving at least 100,000 residential customers in this state. This amount shall be used for grants under subsection (10).

(c) In the case of an energy utility company serving fewer than 100,000 customers in this state, its proportional share of $100,000.00 adjusted annually by a factor as provided in subsection (4). This adjusted amount shall become the new base amount to which the factor provided in subsection (4) is applied in the succeeding year. A utility's proportional share shall be calculated by dividing the company's jurisdictional total operating revenues for the preceding year, as stated in its annual report, by the total operating revenues for the preceding year of all energy utility companies serving fewer than 100,000 customers in this state. This amount shall be made available by the board for use by the attorney general for the
(d) In the case of an energy utility company serving fewer than 100,000 residential customers in this state, its proportional share of $100,000.00 adjusted annually by a factor as provided in subsection (4). This adjusted amount shall become the new base amount to which the factor provided in subsection (4) is applied in the succeeding year. A utility's proportional share shall be calculated by dividing the company's jurisdictional gross revenues from residential tariff sales for the preceding year by the gross revenues from residential tariff sales for the preceding year of all energy utility companies serving fewer than 100,000 residential customers in this state. This amount shall be used for grants under subsection (10).

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

(4) For purposes of subsection (2), the board shall set the factor at a level not to exceed the percentage increase in the Consumer Price Index for urban wage earners and clerical workers, select areas, all items indexed, for the Detroit standard metropolitan statistical area, compiled by the Bureau of Labor Statistics of the United States Department of Labor, or any successor agency, that has occurred between January of the preceding year and January of the year in which the payment is required to be made. In the event that more than 1 such index is compiled, the index yielding the largest
payment shall be the maximum allowable factor. The board shall advise utilities of the factor.

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

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

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

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

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

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

(11) The board shall create and make available to applicants an application form. Each applicant shall indicate on the application how the applicant meets the eligibility requirements provided for in this section and how the applicant proposes to use a grant from the fund to participate in 1 or more proceedings as authorized in subsection (16) that have been or are expected to be filed. Each applicant shall also identify on the application any additional funds or resources, other than the grant funds being requested, that are to be used to participate in the proceeding for which the grant is being requested and how those funds or resources will be utilized. The board shall receive an application requesting a grant from the fund only from a nonprofit organization or a unit of local government in this state. The board shall consider only applications for grants containing proposals that are consistent with subsections (16) and (17) and that serve the interests of residential utility consumers. For purposes of making grants, the board may consider energy conservation, energy waste reduction, demand response, and rate design options to encourage energy conservation, energy waste reduction, and demand response, as well as the maintenance of adequate energy resources. The board shall not consider an application that primarily benefits the applicant or a service provided or administered by the applicant. The board
shall not consider an application from a nonprofit organization if
1 of the organization's principal interests or unifying principles
is the welfare of a utility or its investors or employees, or the
welfare of 1 or more businesses or industries, other than farms not
owned or operated by a corporation, that receive utility service
ordinarily and primarily for use in connection with the profit-
seeking manufacture, sale, or distribution of goods or services.
Mere ownership of securities by a nonprofit organization or its
members does not disqualify an application submitted by that
organization.

(12) The board shall encourage the representation of the
interests of identifiable types of residential utility consumers
whose interests may differ, including various social and economic
classes and areas of the state, and if necessary, may make grants
to more than 1 applicant whose applications are related to a
similar issue to achieve this type of representation. In addition,
the board shall consider and balance the following criteria in
determining whether to make a grant to an applicant:

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

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

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

(d) The anticipated effect of the proposal contained in the
(e) Evidence demonstrating the potential for continuity of effort and the development of expertise in relation to the proposal contained in the application.

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

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

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

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

(16) The annual receipts and interest earned, less administrative costs, may be used only for participation in administrative and judicial proceedings under sections 6a, 6h, 6j, 6s, and 6t, before and involving the public service commission and in federal administrative and judicial proceedings that directly affect the energy costs or rates paid by energy utility customers in this state. Amounts that have been in the fund more than 12
months may be retained in the fund for future proceedings and any unexpended money in the fund shall be reserved to fulfill the purposes for which it was appropriated or may be returned to energy utility companies or used to offset their future remittances in proportion to their previous remittances to the fund, as the board and attorney general determine will best serve the interests of consumers.

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

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

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

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

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

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

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

(a) An account of all grant expenditures made by the grant recipient. Expenditures shall be reported within the following categories:

(i) Employee and contract for services costs.

(ii) Costs of materials and supplies.

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

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

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

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

(a) An account of all expenditures made by the attorney
general of money received under this section. Expenditures must be reported within the following categories:

(i) Employee and contract for services costs.

(ii) Costs of materials and supplies.

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

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

(22) On or before July 1 of each calendar year, the board shall submit a detailed report to the house and senate committees with jurisdiction over energy and utility policy issues regarding the discharge of duties and responsibilities under this section and section 6l during the preceding calendar year.

Sec. 6t. (1) The commission shall, within 120 days of the effective date of the amendatory act that added this section by August 18, 2017 and every 5 years thereafter, commence a proceeding and, in consultation with the Michigan agency for energy, the department of environmental quality, environment, Great Lakes, and energy, and other interested parties, do all of the following as part of the proceeding:

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

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

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

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

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

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

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

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

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

(iv) Any regional infrastructure limitations in this state.

(v) The projected costs of different types of fuel used for electric generation.
(g) Allow other state agencies to provide input regarding any other regulatory requirements that should be included in modeling scenarios or assumptions.

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

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

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

(3) Not later than 2 years after the effective date of the amendatory act that added this section, April 20, 2019, each electric utility whose rates are regulated by the commission shall file with the commission an integrated resource plan that provides a 5-year, 10-year, and 15-year projection of the utility's load obligations and a plan to meet those obligations, to meet the utility's requirements to provide generation reliability, including meeting planning reserve margin and local clearing requirements determined by the commission or the appropriate independent system.
operator, and to meet all applicable state and federal reliability and environmental regulations over the ensuing term of the plan. The commission shall issue an order establishing filing requirements, including application forms and instructions, and filing deadlines for an integrated resource plan filed by an electric utility whose rates are regulated by the commission. The electric utility's plan may include alternative modeling scenarios and assumptions in addition to those identified under subsection (1).

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

(5) An integrated resource plan shall must include all of the
following:
  (a) A long-term forecast of the electric utility's sales and peak demand under various reasonable scenarios.
  (b) The type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including projected fuel costs under various reasonable scenarios.
  (c) Projected energy purchased or produced by the electric utility from a renewable energy resource. If the level of renewable energy purchased or produced is projected to drop over the planning periods set forth in subsection (3), the electric utility must demonstrate why the reduction is in the best interest of ratepayers.
  (d) Details regarding the utility's plan to eliminate energy waste, including the total amount of energy waste reduction expected to be achieved annually, the cost of the plan, and the expected savings for its retail customers.
  (e) An analysis of how the combined amounts of renewable energy and energy waste reduction achieved under the plan compare to the renewable energy resources and energy waste reduction goal provided in section 1 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001. This analysis and comparison may include renewable energy and capacity in any form, including generating electricity from renewable energy systems for sale to retail customers or purchasing or otherwise acquiring renewable energy credits with or without associated renewable energy, allowed under section 27 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1027, as it existed before the effective date of the amendatory act that added
An analysis of how the electric utility's plan complies with the requirement in section 28 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1028, that 9% of the 60% renewable energy standard is sourced from distributed generation resources. The analysis shall also include proposed incentive programs and ways to eliminate barriers for customers to facilitate compliance with the commitment to distributed generation.

Projected load management and demand response savings for the electric utility and the projected costs for those programs.

Projected energy and capacity purchased or produced by the electric utility from a cogeneration resource.

An analysis of potential new or upgraded electric transmission options for the electric utility.

Data regarding the utility's current generation portfolio, including the age, capacity factor, licensing status, and remaining estimated time of operation for each facility in the portfolio.

Plans for meeting current and future capacity needs with the cost estimates for all proposed construction and major investments, including any transmission or distribution infrastructure that would be required to support the proposed construction or investment, and power purchase agreements.

An analysis of the cost, capacity factor, and viability of all reasonable options available to meet projected energy and capacity needs, including, but not limited to, existing electric generation facilities in this state.
(m) Projected rate impact for the periods covered by the plan.

(n) How the utility will comply with all applicable state and federal environmental regulations, laws, and rules, and the projected costs of complying with those regulations, laws, and rules.

(o) A forecast of the utility's peak demand and details regarding the amount of peak demand reduction the utility expects to achieve and the actions the utility proposes to take in order to achieve that peak demand reduction.

(p) The projected long-term firm gas transportation contracts or natural gas storage the electric utility will hold to provide an adequate supply of natural gas to any new generation facility.

(q) The impact of the plan on the goals identified in section 6(3)(c) to (f).

(6) Before filing an integrated resource plan under this section, each electric utility whose rates are regulated by the commission shall issue a request for proposals to provide any new supply-side generation capacity resources needed to serve the utility's reasonably projected electric load, applicable planning reserve margin, and local clearing requirement for its customers in this state and customers the utility serves in other states during the initial 3-year planning period to be considered in each integrated resource plan to be filed under this section. An electric utility shall define qualifying performance standards, contract terms, technical competence, capability, reliability, creditworthiness, past performance, and other criteria that responses and respondents to the request for proposals must meet in
order to be considered by the utility in its integrated resource plan to be filed under this section. Respondents to a request for proposals may request that certain proprietary information be exempt from public disclosure as allowed by the commission. A utility that issues a request for proposals under this subsection shall use the resulting proposals to inform its integrated resource plan filed under this section and include all of the submitted proposals as attachments to its integrated resource plan filing regardless of whether the proposals met the qualifying performance standards, contract terms, technical competence, capability, reliability, creditworthiness, past performance, or other criteria specified for the utility's request for proposals under this section. An existing supplier of electric generation capacity currently producing at least 200 megawatts of firm electric generation capacity resources located in the independent system operator's zone in which the utility's load is served that seeks to provide electric generation capacity resources to the utility may submit a written proposal directly to the commission as an alternative to any supply-side generation capacity resource included in the electric utility's integrated resource plan submitted under this section, and has standing to intervene in the contested case proceeding conducted under this section. This subsection does not require an entity that submits an alternative under this subsection to submit an integrated resource plan. This subsection does not limit the ability of any other person to submit to the commission an alternative proposal to any supply-side generation capacity resource included in the electric utility's integrated resource plan submitted under this section and to petition for and be granted leave to intervene in the contested
case proceeding conducted under this section under the rules of practice and procedure of the commission. The commission shall only consider an alternative proposal submitted under this subsection as part of its approval process under subsection (8). The electric utility submitting an integrated resource plan under this section is not required to adopt any proposals submitted under this subsection. To the extent practicable, each electric utility is encouraged, but not required, to partner with other electric providers in the same local resource zone as the utility's load is served in the development of any new supply-side generation capacity resources included as part of its integrated resource plan.

(7) Not later than 300 days after an electric utility files an integrated resource plan under this section, the commission shall state if the commission has any recommended changes, and if so, describe them in sufficient detail to allow their incorporation in the integrated resource plan. If the commission does not recommend changes, it shall issue a final, appealable order approving or denying the plan filed by the electric utility. If the commission recommends changes, the commission shall set a schedule allowing parties at least 15 days after that recommendation to file comments regarding those recommendations, and allowing the electric utility at least 30 days to consider the recommended changes and submit a revised integrated resource plan that incorporates 1 or more of the recommended changes. If the electric utility submits a revised integrated resource plan under this section, the commission shall issue a final, appealable order approving the plan as revised by the electric utility or denying the plan. The commission shall issue a final, appealable order no later than 360 days after an
electric utility files an integrated resource plan under this section. Up to 150 days after an electric utility makes its initial filing, the electric utility may file to update its cost estimates if those cost estimates have materially changed. A utility shall not modify any other aspect of the initial filing unless the utility withdraws and refiles the application. A utility's filing updating its cost estimates does not extend the period for the commission to issue an order approving or denying the integrated resource plan. The commission shall review the integrated resource plan in a contested case proceeding conducted pursuant to in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission shall allow intervention by interested persons including electric customers of the utility, respondents to the utility's request for proposals under this section, or other parties approved by the commission. The commission shall request an advisory opinion from the department of environmental quality environment, Great Lakes, and energy regarding whether any potential decrease in emissions of sulfur dioxide, oxides of nitrogen, mercury, and particulate matter would reasonably be expected to result if the integrated resource plan proposed by the electric utility under subsection (3) was approved and whether the integrated resource plan can reasonably be expected to achieve compliance with the regulations, laws, or rules identified in subsection (1). The commission may take official notice of the opinion issued by the department of environmental quality environment, Great Lakes, and energy under this subsection pursuant to R 792.10428 of the Michigan Administrative Code. Information submitted by the department of environmental quality environment, Great Lakes, and energy under this subsection is
advisory and is not binding on future determinations by the department of environmental quality, Great Lakes, and energy or the commission in any proceeding or permitting process. This section does not prevent an electric utility from applying for, or receiving, any necessary permits from the department of environmental quality, Great Lakes, and energy. The commission may invite other state agencies to provide testimony regarding other relevant regulatory requirements related to the integrated resource plan. The commission shall permit reasonable discovery after an integrated resource plan is filed and during the hearing in order to assist parties and interested persons in obtaining evidence concerning the integrated resource plan, including, but not limited to, the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties.

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

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

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

(ii) Compliance with applicable state and federal environmental regulations.
(iii) Competitive pricing.
(iv) Reliability.
(v) Commodity price risks.
(vi) Diversity of generation supply.
(vii) Whether the proposed levels of peak load reduction and energy waste reduction are reasonable and cost-effective. Exceeding the renewable energy resources and energy waste reduction goal in section 1 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001, by a utility shall not, in and of itself, be grounds for determining that the proposed levels of peak load reduction, renewable energy, and energy waste reduction are not reasonable and cost-effective.

(b) To the extent practicable, the construction or investment in a new or existing capacity resource in this state is completed using a workforce composed of residents of this state as determined by the commission. This subdivision does not apply to a capacity resource that is located in a county that lies on the border with another state.

(c) The plan is consistent with state public policy goals for the utility sector, including the goals of meeting 60% of the state's electricity needs using renewable energy by 2030 and meeting 100% of the state's electricity needs using carbon-free energy by 2035.

(d) The plan promotes environmental quality and public health and minimizes adverse effects on human health due to power generation, including through the reduction of localized air pollutants, with a priority on improvements in communities disproportionately impacted by pollution and other environmental
harm.

(e) The plan promotes the public interest. In assessing whether the petition or application promotes the public interest, the commission shall consider the goals in section 6(3) and any significant issues raised in a public input hearing under section 6aa.

(f) The plan meets the requirements of subsection (5).

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

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

(11) In approving an integrated resource plan under this
section, the commission shall specify the costs approved for the
construction of or significant investment in an electric generation
facility, the purchase of an existing electric generation facility, the purchase of power under the terms of the power purchase
agreement, or other investments or resources used to meet energy
and capacity needs that are included in the approved integrated
resource plan. The costs for specifically identified investments, including the costs for facilities under subsection (12), included in an approved integrated resource plan that are commenced within 3 years after the commission's order approving the initial plan, amended plan, or plan review are considered reasonable and prudent for cost recovery purposes.

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

(a) Implemented a competitive bidding process for all major engineering, procurement, and construction contracts associated with the construction of the electric generation facility.

(b) Implemented a competitive bidding process that allows third parties to submit firm and binding bids for the construction of an electric generation facility on behalf of the utility that would meet all of the technical, commercial, and other specifications required by the utility for the generation facility, such that ownership of the electric generation facility vests with
the utility no later than the date the electric generation facility
becomes commercially available.

(c) Demonstrated to the commission that the finalized costs
for the new electric generation facility are not significantly
higher than the initially approved costs under subsection (11). If
the finalized costs are found to be significantly higher than the
initially approved costs, the commission shall review and approve
the proposed costs if the commission determines those costs are
reasonable and prudent.

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

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

(15) For power purchase agreements that a utility enters into
after the effective date of the amendatory act that added this
section April 20, 2017 with an entity that is not affiliated with
that utility, the commission shall consider and may authorize a
financial incentive for that utility that does not exceed the
utility's weighted average cost of capital.

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

(17) The commission shall include in an electric utility's
retail rates all reasonable and prudent costs specified under
subsections (11) and (12) that have been incurred to implement an
integrated resource plan approved by the commission. The commission
shall not disallow recovery of costs an electric utility incurs in
implementing an approved integrated resource plan, if the costs do
not exceed the costs approved by the commission under subsections
(11) and (12). If the actual costs incurred by the electric utility
exceed the costs approved by the commission, the electric utility
has the burden of proving by a preponderance of the evidence that
the costs are reasonable and prudent. The portion of the cost of a
plant, facility, power purchase agreement, or other investment in a
resource that meets a demonstrated need for capacity that exceeds
the cost approved by the commission is presumed to have been
incurred due to a lack of prudence. The commission may include any
or all of the portion of the cost in excess of the cost approved by
the commission if the commission finds by a preponderance of the
evidence that the costs are reasonable and prudent. The commission
shall disallow costs the commission finds have been incurred as the
result of fraud, concealment, gross mismanagement, or lack of
quality controls amounting to gross mismanagement. The commission
shall also require refunds with interest to ratepayers of any of these costs already recovered through the electric utility's rates and charges. If the assumptions underlying an approved integrated resource plan materially change, or if the commission believes it is unlikely that a project or program will become commercially operational, an electric utility may request, or the commission on its own motion may initiate, a proceeding to review whether it is reasonable and prudent to complete an unfinished project or program included in an approved integrated resource plan. If the commission finds that completion of the project or program is no longer reasonable and prudent, the commission may modify or cancel approval of the project or program and unincurred costs in the electric utility's integrated resource plan. Except for costs the commission finds an electric utility has incurred as the result of fraud, concealment, gross mismanagement, or lack of quality controls amounting to gross mismanagement, if commission approval is modified or canceled, the commission shall not disallow reasonable and prudent costs already incurred or committed to by contract by an electric utility. Once the commission finds that completion of the project or program is no longer reasonable and prudent, the commission may limit future cost recovery to those costs that could not be reasonably avoided.

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

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

(20) An electric utility shall file an application for review of its integrated resource plan not later than 5 years after the effective date of the most recent commission order approving a plan, a plan amendment, or a plan review. The commission shall consider a plan review under the same process and standards established in this section for review and approval of an integrated resource plan. A commission order approving a plan review has the same effect as an order approving an integrated resource plan.

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

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

Sec. 6aa. (1) The commission shall hold at least 2 public input hearings before the commission does any of the following:
(a) Issues an order in a general rate case.
(b) Approves an integrated resource plan proceeding under section 6t.
(c) Approves a renewable energy plan or an amendment to a renewable energy plan under section 22 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1022.
(d) Approves an energy waste reduction plan or an amendment to an energy waste reduction plan under section 73 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1073.
(e) Issues a final order in any other proceeding of substantial public interest, as determined by the commission.

(2) The commission shall set the time, place, and manner of public input hearings under subsection (1) to encourage meaningful participation by low-income residential customers, residential customers who experience high energy burdens, and individuals, communities, and community-based organizations likely to be most directly impacted by the outcome of the proceeding.

(3) At a public input hearing held under subsection (1), members of the public may do either of the following:
(a) Testify formally in the case, under oath or affirmation, and be subject to cross-examination by any party. Formal testimony made under oath is considered as evidence subject to the customary rules of evidence.
(b) Make unsworn or unaffirmed statements and not be subject to cross-examination.

(4) Not later than 60 days after the effective date of the amendatory act that added this section, the commission shall open a proceeding to consider improvements to its decision-making processes and procedures with respect to all of the following:

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

(b) Ensuring equitable participation in the commission's decision-making processes, especially by low-income residential customers, residential customers that experience high energy burdens, and individuals, communities, and community-based organizations most directly impacted by commission decisions.

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

Sec. 11. (1) Except as otherwise provided in this subsection, the commission shall ensure the establishment of electric rates equal to the cost of providing service to each customer class. In establishing cost of service rates, the commission shall ensure that each class, or sub-class, is assessed for its fair and equitable use of the electric grid. If the commission determines that the impact of imposing cost of service rates on customers of an electric utility would have a material impact on customer rates, the commission may approve an order that implements those rates over a suitable number of years.

(2) The commission shall ensure that the cost of providing service to each customer class is based on the allocation of production-related costs based on using the 75-0-25 method of cost allocation and in a manner that reflects cost causation. In making
that determination, the commission may consider the impact on cost
causation of resource adequacy requirements adopted by the regional
transmission organization in which the electric utility operates.
The commission may also consider the energy value, generating
profile, and other characteristics of different types or categories
of generating resources that impact cost causation. The commission
may approve different allocation methods for an electric utility's
different types or categories of generating resources if the
commission determines that the action allocates production costs in
a manner that better reflects cost causation than allocating the
production costs of all types and categories of the electric
utility's generating resources using the same method. The
commission, on its own motion, may direct an electric utility to
file an application for redetermination of a production cost
allocation method or methods if the commission finds that
circumstances warrant that action.

(3) The commission shall ensure that the cost of providing
service to each customer class is based on the allocation of
transmission costs based on using the 100% demand method of cost
allocation. The commission may modify this method if it determines
that this method of cost allocation does not ensure that rates are
equal to the cost of service.

(4) (2)—Notwithstanding any other provision of this act, the
commission may establish eligible low-income customer or eligible
senior citizen customer rates. Upon filing of a rate increase
request, a utility shall include proposed eligible low-income
customer and eligible senior citizen customer rates and a method to
allocate the revenue shortfall attributed to the implementation of
those rates upon all customer classes. As used in this subsection,
"eligible low-income customer" and "eligible senior citizen customer" mean those terms as defined in section 10t.

(5) (c) Notwithstanding any other provision of this section, the commission shall establish rate schedules that ensure that public and private schools, universities, and community colleges are charged retail electric rates that reflect the actual cost of providing service to those customers. Electric utilities regulated under this section shall file with the commission tariffs to ensure that public and private schools, universities, and community colleges are charged electric rates as provided in this subsection.

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

(a) Senate Bill No.____ or House Bill No. 4759 (request no. 02469'23).

(b) Senate Bill No.____ or House Bill No. 4761 (request no. 02854'23).