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**STATE OF MICHIGAN  
102ND LEGISLATURE  
REGULAR SESSION OF 2023**

Introduced by Senators Singh, McMorrow, Cavanagh, Irwin, Shink, Geiss, Chang, Camilleri, Hertel, Moss, Bayer, Brinks, Anthony and Polehanki

## **ENROLLED SENATE BILL No. 273**

AN ACT to amend 2008 PA 295, entitled “An act to require certain providers of electric service to establish and recover costs for renewable energy programs; to require certain providers of electric or natural gas service to establish energy waste reduction programs; to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy waste reduction service companies; to reduce energy waste by state agencies and the public; to create a wind energy resource zone board and provide for its power and duties; to authorize the creation and implementation of wind energy resource zones; to provide for expedited transmission line siting certificates; to provide for customer generation and net metering programs and the responsibilities of certain providers of electric service and customers with respect to customer generation and net metering; to provide for fees; to prescribe the powers and duties of certain state agencies and officials; to require the promulgation of rules and the issuance of orders; to authorize the establishment of residential energy improvement programs by providers of electric or natural gas service; and to provide for civil sanctions, remedies, and penalties,” 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:*

Sec. 71. (1) Each provider shall have an energy waste reduction plan that has been approved as provided under section 73.

(2) The overall goal of an energy waste reduction plan is to help the provider’s customers reduce energy waste and to reduce the future costs of provider service to customers. In particular, an electric provider’s energy waste reduction plan shall be designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of such construction.

(3) An energy waste reduction plan shall do all of the following:

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

(b) Specify necessary funding levels.

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

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

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

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

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

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

(i) Include a process for obtaining an independent expert evaluation of the actual energy waste reduction programs to verify the incremental energy savings from each energy waste reduction program for purposes of section 77. All evaluations are subject to public review and commission oversight.

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

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

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

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

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

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

(a) Reduce total energy consumption at the premises.

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

(c) For residential and commercial customers interconnected at secondary voltage, provide annual average energy cost savings.

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

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

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

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

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

Sec. 73. (1) For a provider whose rates are regulated by the commission, the provider's energy waste reduction plan shall be filed with and reviewed, approved or rejected, and enforced by the commission. For a provider whose rates are not regulated by the commission, the provider's energy waste reduction plan shall be filed with and reviewed and approved or rejected by its governing body, and the plan shall be enforced as provided in section 99.

Notwithstanding any other provision of this subpart, the commission shall allow municipally owned electric utilities to design and administer energy waste reduction plans in a manner consistent with the administrative changes approved in the commission's April 17, 2012 order in case nos. U-16688 to U-16728 and U-17008 or any subsequent orders adopted by the commission.

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

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

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

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

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

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

(3) Every 2 years after initial approval of an energy waste reduction plan under subsection (2) until 2025, the commission shall review the plan. Subject to subsection (6), a provider whose rates are not regulated by the commission shall adopt a plan in 2025, and shall readopt the plan or adopt a new plan every 4 years thereafter. Pursuant to a filing schedule established by the commission, an electric provider or an electric and natural gas provider whose rates are regulated by the commission shall file a plan in 2025, and, after 2025, shall file a plan not less than 8 months after receiving a final order on an integrated resource plan as provided under section 6t of 1939 PA 3, MCL 460.6t, unless otherwise authorized by the commission. A natural gas provider whose rates are regulated by the commission shall file a plan by 2025, and every 4 years thereafter, pursuant to a filing schedule established by the commission. For a provider whose rates are regulated by the commission, the commission shall conduct a contested case hearing on the plan in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the commission shall approve, with any changes consented to by the provider, or reject the plan and any proposed amendments to the plan.

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

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

(6) Until December 31, 2024, this section does not apply to an electric provider whose rates are not regulated by the commission.

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

(2) The total amount of a financial incentive for an electric provider that achieves the following amount of annual incremental savings, expressed as a percentage of its total annual retail electricity sales in megawatt hours in the preceding year, with an average savings life of at least 8 years, shall not exceed the following:

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

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

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

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

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

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

- (c) For savings of greater than 1.83% but not greater than 2% of sales, an incentive of the lesser of the following:
  - (i) 30% of customer life cycle cost reductions.
  - (ii) 20% of the provider's actual energy waste reduction program expenditures for the year.
- (d) For savings of greater than 1.66% but not greater than 1.83% of sales, an incentive of the lesser of the following:
  - (i) 27.5% of customer life cycle cost reductions.
  - (ii) 17.5% of the provider's actual energy waste reduction program expenditures for the year.
- (e) For savings of greater than 1.5% but not greater than 1.66% of sales, an incentive of the lesser of the following:
  - (i) 25% of customer life cycle cost reductions.
  - (ii) 15% of the provider's actual energy waste reduction program expenditures for the year.
- (3) The total amount of the financial incentive for a natural gas provider that achieves the following amount of annual incremental savings expressed as a percentage of its total annual retail natural gas sales in decatherms in the preceding year, with an average savings life of at least 10 years, shall not exceed the following:
  - (a) For savings of greater than 1.25% of sales, an incentive of the lesser of the following:
    - (i) 32.5% of customer life cycle cost reductions.
    - (ii) 22.5% of the provider's actual energy waste reduction program expenditures for the year.
  - (b) For savings of greater than 1% but not greater than 1.25% of sales, an incentive of the lesser of the following:
    - (i) 30% of customer life cycle cost reductions.
    - (ii) 20% of the provider's actual energy waste reduction program expenditures for the year.
  - (c) For savings of greater than 0.875% but not greater than 1% of sales, an incentive of the lesser of the following:
    - (i) 15% of customer life cycle cost reductions.
    - (ii) 10% of the provider's actual energy waste reduction program expenditures for the year.
- (4) A natural gas provider that spends at least 67% of its total energy waste reduction budget on measures that reduce space heating loads is eligible for an additional incentive of 2.5% of the provider's actual energy waste reduction program expenditures for the year. As used in this subsection, "measures that reduce space heating loads" means improvements to any of the following:
  - (a) Building envelopes, such as air sealing, insulation, or efficient windows and doors.
  - (b) Heating distribution systems and heating system controls.
  - (c) Ventilation systems.
- (5) As used in this section, "life cycle cost reductions" means the net present value of life cycle cost reductions experienced by the provider's customers as a result of implementation, during the year for which the financial incentive is paid, of the energy waste reduction plan.

Sec. 77. (1) Subject to section 97, each year beginning 2026, an electric provider's energy waste reduction programs under this subpart shall collectively achieve incremental energy savings equivalent to 1.5% of total retail electricity sales in megawatt hours in the preceding year, with an average life of at least 8 years for energy waste reduction measures.

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

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

(4) If an electric provider has a program to promote the installation of qualifying cold-climate air-source heat pumps or qualifying ground-source heat pumps and includes incentives to improve building envelope energy efficiency for participating homes, the electric provider may count the savings from the building envelope efficiency improvements toward each year's annual savings requirement, regardless of the original heating fuel source, subject to all of the following:

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

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

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

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

(6) A natural gas provider may claim natural gas savings resulting from investments in qualifying efficient electrification measures, or investments in building envelope efficiency improvements made as part of projects involving qualifying efficient electrification measures, if the savings are not also counted toward an electric utility's savings goals. When a natural gas provider and an electric provider are both involved in a qualifying efficient electrification measures project, including a project that involves both building envelope efficiency and qualifying efficient electrification measures, the providers shall work together to reach an agreement on how savings claims will be allocated between the providers. The commission may adopt standards or default provisions for the allocation of savings claims between providers that apply if the providers are unable to reach an agreement.

(7) Subject to section 97, a natural gas provider's energy waste reduction program under this subpart shall achieve the following:

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

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

(8) Incremental energy savings under subsection (1) or (7) for a year shall be determined for a provider by adding the energy savings expected to be achieved by energy waste reduction measures implemented during that year under any energy waste reduction programs consistent with the provider's energy waste reduction plan. The energy savings expected to be achieved shall be determined using a savings database or other savings measurement approach as determined reasonable by the commission.

(9) For purposes of calculations under subsection (1) or (7), total retail electricity or natural gas sales in a year shall be based on 1 of the following at the option of the provider as specified in its energy waste reduction plan:

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

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

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

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

Sec. 78. (1) If over a 2-year period an electric provider whose rates are regulated by the commission cannot achieve the energy waste reduction standard in a cost-effective manner, the provider may petition the commission in a contested case hearing under section 73(3) to establish an alternative energy waste reduction level for that provider.

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

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

- (a) Identify the efforts taken by the natural gas provider to meet the energy waste reduction standard.
- (b) Explain why the energy waste reduction standard cannot reasonably and cost-effectively be achieved.
- (c) Propose a revised energy waste reduction standard to be achieved by the natural gas provider.

(4) If, based on a review of the petition filed under subsection (2), the commission determines that the natural gas provider has been unable to reasonably and cost-effectively achieve the energy waste reduction standard, the commission shall revise the energy waste reduction standard as applied to the natural gas provider to a level that can reasonably and cost-effectively be achieved.

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

(2) A low-income energy waste reduction program shall be designed and funded with the goal that low-income residential customers achieve levels of energy waste reduction similar to or greater than the levels of energy waste reduction of other residential customers. Low-income energy waste reduction programs shall include investments in health and safety measures appropriate and necessary to address health and safety conditions that are impediments to implementing energy waste reduction measures for low-income residential customers. Providers shall work to deliver and coordinate low-income energy waste reduction programs and other offerings that serve and maximize the benefits to low-income residential customers. Energy savings shall be attributed to health and safety measure spending at the average energy waste reduction program savings level and in proportion to the amount of health and safety measure spending relative to overall energy waste reduction program spending.

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

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

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

- (a) Proof of participation in other low-income qualified programs.
- (b) Location in a low-income census tract.
- (c) Other methods to be determined by the commission.

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

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

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

Sec. 91. (1) Except for section 89(5), sections 71 to 89 do not apply to a provider that makes an alternative compliance payment in an amount determined, and to an independent energy waste reduction program administrator selected by the commission. The commission shall determine the amount of an alternative compliance payment under this subsection.

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

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

(4) The commission shall allow a provider to recover an alternative compliance payment under subsection (1). The alternative compliance payment shall be recovered from residential customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered customers by an appropriate charge. Fixed, per-meter charges under this subsection may vary by rate class.

(5) A provider's alternative compliance payment under subsection (1) shall be used only to fund energy waste reduction programs for that provider's customers. To the extent feasible, charges collected from a particular customer rate class and paid to the energy waste reduction program administrator under subsection (1) shall be devoted to energy waste reduction programs and services for that rate class.

(6) Money paid to the energy waste reduction program administrator under subsection (1) and not spent by the administrator that year remains available for expenditure the following year, subject to the requirements of subsection (5).

(7) The commission shall select a qualified nonprofit organization to serve as an energy waste reduction program administrator under this section, through a competitive bid process.

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

(9) The commission shall arrange for a biennial independent audit of the energy waste reduction program administrator.

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

(2) Subject to subsection (3), an electric customer is not eligible under subsection (1) unless it is a commercial or industrial electric customer and had an annual peak demand in the preceding year of at least 1 megawatt in the aggregate at all sites to be covered by the self-directed plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) A self-directed energy waste reduction plan shall be incorporated into the relevant electric provider's energy waste reduction plan. The self-directed plan and information submitted by the customer under subsection (9) are confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Projected energy savings from measures implemented under a self-directed plan shall be attributed to the relevant provider's energy waste reduction programs for the purposes of determining annual incremental energy savings achieved by the provider under section 77.

(8) Once a customer begins to implement a self-directed plan at a site covered by the self-directed plan, that site is exempt from energy waste reduction program charges under sections 72, 89, and 91 and is not eligible to participate in the relevant electric provider's energy waste reduction programs.

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

(10) An electric provider shall provide an annual report to the commission that identifies customers implementing self-directed energy waste reduction plans and summarizes the results achieved cumulatively under those self-directed plans. The commission may request additional information from the electric provider. If the commission has sufficient reason to believe the information is inaccurate or incomplete, it may request additional information from the customer to ensure accuracy of the report.

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

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

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

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

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

(13) By September 1, 2010, following a public hearing, the commission shall establish an approval process for energy waste reduction service companies. The approval process shall ensure that energy waste reduction service companies have the expertise, resources, and business practices to reliably provide energy waste reduction services that meet the requirements of this section. The commission may adopt by reference the past or current standards of a national or regional certification or licensing program for energy waste reduction service



companies. However, the approval process shall also provide an opportunity for energy waste reduction service companies that are not recognized by such a program to be approved by posting a bond in an amount determined by the commission and meeting any other requirements adopted by the commission for the purposes of this subsection. The approval process for energy waste reduction service companies shall require adherence to a code of conduct governing the relationship between energy waste reduction service companies and electric providers.

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

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



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Secretary of the Senate



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Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor