

CLEAN AND RENEWABLE ENERGY AND ENERGY WASTE REDUCTION ACT (EXCERPT)
Act 295 of 2008

SUBPART A.
RENEWABLE ENERGY

460.1021 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to filing of proposed renewable energy plan by electric provider and approval of commission.

460.1022 Electric provider whose rates are regulated by commission; establishment of revenue recovery mechanism; review of electric provider's plan pursuant to filing schedule; contested case hearing; approval or rejection of plan and proposed amendments to plan.

Sec. 22. (1) Renewable energy plans and associated revenue recovery mechanisms filed by an electric provider, approved under former section 21 or 23 or found to comply with this act under former section 25 and in effect on the effective date of the 2016 amendatory act that added this section, remain in effect, subject to amendments as provided for under subsections (3) and (4).

(2) For an electric provider whose rates are regulated by the commission, amended renewable energy plans shall establish a nonvolumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates. The revenue recovery mechanism shall not result in rate impacts that exceed the monthly maximum retail rate impacts specified under section 45. The revenue recovery mechanism is subject to adjustment under sections 47(4) and 49.

(3) Within 1 year after the effective date of the 2016 amendatory act that added this section, the commission shall review each electric provider's plan pursuant to a filing schedule established by the commission. For an electric provider whose rates are regulated by the commission, the commission shall conduct a contested case hearing on the plan pursuant to 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 electric provider, or reject the plan and any amendments to the plan. For all other electric providers, the commission shall provide an opportunity for public comment on the plan. After the applicable opportunity for public comment, the commission shall determine whether any amendment to the plan proposed by the provider complies with this act. For alternative electric suppliers, the commission shall approve, with any changes consented to by the electric provider, or reject any proposed amendments to the plan. For cooperative electric utilities and municipally owned utilities, the proposed amendment is adopted if the commission determines that it complies with this act.

(4) If an electric provider proposes to amend its plan after the review process under subsection (3), the electric provider shall file the proposed amendment with the commission. For an electric provider whose rates are regulated by the commission, if the proposed amendment would modify the revenue recovery mechanism, the commission shall conduct a contested case hearing on the amendment pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and the proposed amendment or amendments to the plan. For all other electric providers, the commission shall provide an opportunity for public comment on the amendment. After the applicable opportunity for public comment and within 90 days after the amendment is filed, the commission shall determine whether the proposed amendment to the plan complies with this act. For alternative electric suppliers, the commission shall approve, with any changes consented to by the electric provider, or reject any proposed amendments to the plan. For cooperative electric utilities and municipally owned utilities, the proposed amendment is adopted if the commission determines that it complies with this act.

(5) For an electric provider whose rates are regulated by the commission, the commission shall approve the plan or amendments to the plan if the commission determines:

(a) That the plan is reasonable and prudent. In making this determination, the commission shall take into consideration projected costs and whether or not projected costs in prior plans were exceeded.

(b) That the plan is consistent with the purpose and goal set forth in section 1(2) and (3) and meets the renewable energy credit standard through 2021.

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

History: Add. 2016, Act 342, Eff. Apr. 20, 2017.

460.1023 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to filing of proposed renewable energy plan by alternative electric supplier or cooperative electric utility and approval by commission.

460.1025 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to filing of proposed renewable energy plan by municipally-owned electric utility and approval by commission.

460.1027 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to electric provider's renewable energy capacity portfolio.

460.1028 Renewable energy credit portfolio; meeting renewable energy credit standards with renewable energy credits; means; submission and approval of contract; substitution of energy waste reduction credits for renewable energy credits.

Sec. 28. (1) An electric provider shall achieve a renewable energy credit portfolio as follows:

(a) In 2016 through 2018, a renewable energy credit portfolio that consists of at least the same number of renewable energy credits as were required under former section 27.

(b) In 2019 and 2020, a renewable energy credit portfolio of at least 12.5%, as calculated under subsection (2).

(c) In 2021, a renewable energy credit portfolio of at least 15%, as calculated under subsection (2).

(2) An electric provider's renewable energy credit portfolio shall be calculated as follows:

(a) Determine the number of renewable energy credits used to comply with this subpart during the applicable year.

(b) Divide by 1 of the following at the option of the electric provider as specified in its renewable energy plan:

(i) The number of weather normalized megawatt hours of electricity sold by the electric provider during the previous year to retail customers in this state.

(ii) 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.

(c) Multiply the quotient under subdivision (b) by 100.

(3) Subject to subsection (5), each electric provider shall meet the renewable energy credit standards with renewable energy credits obtained by 1 or more of the following means:

(a) Generating electricity from renewable energy systems for sale to retail customers.

(b) Purchasing or otherwise acquiring renewable energy credits with or without the associated renewable energy.

(4) For an electric provider whose rates are regulated by the commission, the electric provider shall submit a contract entered into for the purposes of subsection (3) to the commission for review and approval. If the commission approves the contract, it shall be considered consistent with the electric provider's renewable energy plan. The commission shall not approve a contract based on an unsolicited proposal unless the commission determines that the unsolicited proposal provides opportunities that may not otherwise be available or commercially practical through a competitive bid process.

(5) An electric provider may substitute energy waste reduction credits for renewable energy credits otherwise required to meet the renewable energy credit standards if the substitution is approved by the commission. Under this subsection, energy waste reduction credits shall not be used by a provider to meet more than 10% of the renewable energy credit standard. One renewable energy credit shall be awarded per 1 energy waste reduction credit.

History: Add. 2016, Act 342, Eff. Apr. 20, 2017.

460.1029 Renewable energy system location; requirements.

Sec. 29. (1) Subject to subsection (2), a renewable energy system that is the source of renewable energy credits used to satisfy the renewable energy standards shall be either located outside of this state in the retail electric customer service territory of any provider that is not an alternative electric supplier or located anywhere in this state. For the purposes of this subsection, a retail electric customer service territory shall be considered to be the territory recognized by the commission on January 1, 2008 and any expansion of retail electric customer service territory recognized by the commission after January 1, 2008 under 1939 PA 3, MCL 460.1 to 460.11. The commission may also expand a service territory for the purposes of this subsection if a lack of transmission lines limits the ability to obtain sufficient renewable energy from renewable energy systems that meet the location requirement of this subsection.

(2) The renewable energy system location requirements in subsection (1) do not apply if 1 or more of the

following requirements are met:

(a) The renewable energy system is a wind energy conversion system and the electricity generated by the wind energy system, or the renewable energy credits associated with that electricity, is being purchased under a contract in effect on January 1, 2008. If the electricity and associated renewable energy credits purchased under such a contract are used by an electric provider to meet renewable energy requirements established after January 1, 2008 by the legislature of the state in which the wind energy conversion system is located, the electric provider may, for the purpose of meeting the renewable energy credit standard under this act, obtain, by any means authorized under section 28, up to the same number of replacement renewable energy credits from any other wind energy conversion systems located in that state. This subdivision shall not be utilized by an alternative electric supplier unless the alternative electric supplier was licensed in this state on January 1, 2008. Renewable energy credits from a renewable energy system under a contract with an alternative electric supplier under this subdivision shall not be used by another electric provider to meet its requirements under this part.

(b) The renewable energy system is a wind energy conversion system that was under construction or operational and owned by an electric provider on January 1, 2008. This subdivision shall not be utilized by an alternative electric supplier.

(c) The renewable energy system is a wind energy conversion system that includes multiple wind turbines, at least 1 of the wind turbines meets the location requirements of this section, and the remaining wind turbines are within 15 miles of a wind turbine that is part of that wind energy conversion system and that meets the location requirements of this section.

(d) Before January 1, 2008, an electric provider serving not more than 75,000 retail electric customers in this state filed an application for a certificate of authority for the renewable energy system with a state regulatory commission in another state that is also served by the electric provider. However, renewable energy credits shall not be granted under this subdivision for electricity generated using more than 10.0 megawatts of nameplate capacity of the renewable energy system.

(e) Electricity generated from the renewable energy system is sold by a not-for-profit entity located in Indiana, Ohio, or Wisconsin to a municipally-owned electric utility in this state or cooperative electric utility in this state, and the electricity is not being used to meet another state's standard for renewable energy.

(f) All of the following requirements are met:

(i) The renewable energy system is a wind energy system, is interconnected to the electric provider's transmission system, and is located in a state in which the electric provider has service territory.

(ii) The electric provider competitively bid any contract for engineering, procurement, or construction of the renewable energy system, if the electric provider owns the renewable energy system, or for purchase of the renewable energy and associated renewable energy credits from the renewable energy system, if the provider does not own the renewable energy system, in a process open to renewable energy systems sited in this state.

(iii) The renewable energy credits from the renewable energy system are only used by that electric provider to meet the renewable energy standard.

(iv) The electric provider is not an alternative electric supplier.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1031 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to extensions of 2015 renewable energy standard deadline.

460.1033 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to renewable energy credits to be obtained by electric provider with 1,000,000 or more retail customers.

460.1035 Resale of renewable energy under PURPA; investor-owned electric utility with less than 20,000 customers, a municipally-owned electric utility, or cooperative electric utility; resale under power purchase agreement or existing agreements; determination of number of renewable energy credits.

Sec. 35. (1) If an electric provider obtains renewable energy for resale to retail or wholesale customers under an agreement under PURPA, ownership of the associated renewable energy credits shall be as provided by the PURPA agreement. If the PURPA agreement does not provide for ownership of the renewable energy credits, then:

(a) Except to the extent that a separate agreement governs under subdivision (b), for the duration of the PURPA agreement, for every 5 renewable energy credits associated with the renewable energy, ownership of 4 of the renewable energy credits is transferred to the electric provider with the renewable energy, and ownership of 1 renewable energy credit remains with the qualifying small power production facility.

(b) If a separate agreement in effect on January 1, 2008 provides for the ownership of the renewable attributes of the generated electricity, the separate agreement shall govern until January 1, 2013 or until expiration of the separate agreement, whichever occurs first.

(2) If an investor-owned electric utility with less than 20,000 customers, a municipally-owned electric utility, or cooperative electric utility obtains all or substantially all of its electricity for resale under a power purchase agreement or agreements in existence on the effective date of this act, ownership of any associated renewable energy credits shall be considered to be transferred to the electric provider purchasing the electricity. The number of renewable energy credits associated with the purchased electricity shall be determined by multiplying the total number of renewable energy credits associated with the total power supply of the seller during the term of the agreement by a fraction, the numerator of which is the amount of energy purchased under the agreement or agreements and the denominator of which is the total power supply of the seller during the term of the agreement. This subsection does not apply unless 1 or more of the following occur:

(a) The seller and the electric provider purchasing the electricity agree that this subsection applies.

(b) For a seller that is an investor-owned electric utility whose rates are regulated by the commission, the commission reduces the number of renewable energy credits required under the renewable energy credit standard for the seller by the number of renewable energy credits to be transferred to the electric provider purchasing the electricity under this subsection.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1037 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to renewable energy contract without associated renewable energy.

460.1039 Granting 1 renewable energy credit for each megawatt hour of electricity generated from renewable energy system; conditions; granting Michigan incentive renewable energy credits; expiration.

Sec. 39. (1) Except as otherwise provided in section 35(1), 1 renewable energy credit shall be granted to the owner of a renewable energy system for each megawatt hour of electricity generated from the renewable energy system, subject to all of the following:

(a) If a renewable energy system uses both a renewable energy resource and a nonrenewable energy resource to generate electricity or steam, the number of renewable energy credits granted shall be based on the percentage of the electricity or steam, or both, generated from the renewable energy resource.

(b) A renewable energy credit shall not be granted for renewable energy the renewable attributes of which are used by an electric provider in a commission-approved voluntary renewable energy program.

(2) The following additional renewable energy credits, to be known as Michigan incentive renewable energy credits, shall be granted under the following circumstances:

(a) 2 renewable energy credits for each megawatt hour of electricity from solar power generated by a renewable energy system that was approved in a renewable energy plan before the effective date of the 2016 amendatory act that amended this section.

(b) 1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system, other than wind, at peak demand time as determined by the commission.

(c) 1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system during off-peak hours, stored using advanced electric storage technology or a hydroelectric pumped storage facility, and used during peak hours. However, the number of renewable energy credits shall be calculated based on the number of megawatt hours of renewable energy used to charge the advanced electric storage technology or fill the pumped storage facility, not the number of megawatt hours actually discharged or generated by discharge from the advanced energy storage facility or pumped storage facility.

(d) 1/10 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system constructed using equipment made in this state as determined by the commission. The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.

(e) 1/10 renewable energy credit for each megawatt hour of electricity from a renewable energy system

constructed using a workforce composed of residents of this state as determined by the commission. The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.

(3) A renewable energy credit expires at the earliest of the following times:

(a) When used by an electric provider to comply with its renewable energy standard.

(b) When substituted for an energy waste reduction credit under section 77.

(c) When used by an electric provider whose rates are regulated by the commission to contribute to achievement of the goal under section 1(3).

(d) Five years after the end of the month in which the renewable energy credit was generated.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1041 Renewable energy credits; trade, sale, or transfer; demonstration of compliance; establishment of renewable energy credit certification and tracking program; use not required in state.

Sec. 41. (1) Renewable energy credits may be traded, sold, or otherwise transferred.

(2) An electric provider is responsible for demonstrating that a renewable energy credit used to comply with a renewable energy credit standard is derived from a renewable energy source and that the electric provider has not previously used or traded, sold, or otherwise transferred the renewable energy credit.

(3) The same renewable energy credit may be used by an electric provider to comply with both a federal standard for renewable energy and the renewable energy standard under this subpart. An electric provider that uses a renewable energy credit to comply with another state's standard for renewable energy shall not use the same renewable energy credit to comply with the renewable energy credit standard under this subpart.

(4) The commission shall establish a renewable energy credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The program shall include all of the following:

(a) A process to certify renewable energy systems, including all existing renewable energy systems operating on October 6, 2008 as eligible to receive renewable energy credits.

(b) A process for verifying that the operator of a renewable energy system is in compliance with state and federal law applicable to the operation of the renewable energy system when certification is granted. If a renewable energy system becomes noncompliant with state or federal law, renewable energy credits shall not be granted for renewable energy generated by that renewable energy system during the period of noncompliance.

(c) A method for determining the date on which a renewable energy credit is generated and valid for transfer.

(d) A method for transferring renewable energy credits.

(e) A method for ensuring that each renewable energy credit transferred under this act is properly accounted for under this act.

(f) If the system is established by the commission, allowance for issuance, transfer, and use of renewable energy credits in electronic form.

(5) A renewable energy credit purchased from a renewable energy system in this state is not required to be used in this state.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1043 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to granting advanced cleaner energy credit for each megawatt hour of electricity generated from advanced cleaner energy system and establishment of advanced cleaner energy credit certification and tracking program.

460.1045 Charges for electric provider's tariffs that permit recovery of incremental costs of compliance; calculation.

Sec. 45. (1) For an electric provider whose rates are regulated by the commission, the commission shall determine the appropriate charges for the electric provider's tariffs that permit recovery of the incremental cost of compliance subject to the retail rate impact limits set forth in subsection (2).

(2) An electric provider shall recover the incremental cost of compliance with the renewable energy standards. An electric provider shall not comply with the renewable energy standards to the extent that, as

determined by the commission, recovery of the incremental cost of compliance will have a retail rate impact that exceeds any of the following:

- (a) \$3.00 per month per residential customer meter.
- (b) \$16.58 per month per commercial secondary customer meter.
- (c) \$187.50 per month per commercial primary or industrial customer meter.

(3) The retail rate impact limits of subsection (2) apply only to the incremental costs of compliance and do not apply to costs approved for recovery by the commission other than as provided in this act.

(4) The incremental cost of compliance shall be calculated for a 20-year period beginning with approval of the renewable energy plan and shall be recovered on a levelized basis.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1047 Cost of service to be recovered by electric provider; recovery of incremental costs of compliance; calculation; modification of revenue recovery mechanism; excess costs; refund to customer classes; certain actual costs considered as costs of service; "advanced cleaner energy" and "advanced cleaner energy system" defined.

Sec. 47. (1) Subject to the retail rate impact limits under section 45, the commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. Subject to the retail rate impact limits under section 45, an electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance during the 20-year period beginning when the electric provider's plan is approved by the commission and all reasonable and prudent ongoing costs of compliance during and after that period. The recovery shall include, but is not limited to, the electric provider's authorized rate of return on equity for costs approved under this section, which shall remain fixed at the rate of return and debt to equity ratio that was in effect in the electric provider's base rates when the electric provider's renewable energy plan was approved.

(2) Incremental costs of compliance shall be calculated as follows:

(a) Determine the sum of the following costs to the extent those costs are reasonable and prudent and not already approved for recovery in electric rates as of October 6, 2008:

(i) Capital, operating, and maintenance costs of renewable energy systems or advanced cleaner energy systems, including property taxes, insurance, and return on equity associated with an electric provider's renewable energy systems or advanced cleaner energy systems, including the electric provider's renewable energy portfolio established to achieve compliance with the renewable energy standards and any additional renewable energy systems or advanced cleaner energy systems that are built or acquired by the electric provider to maintain compliance with the renewable energy standards during the 20-year period beginning when the electric provider's plan is approved by the commission.

(ii) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems or advanced cleaner energy systems used to meet the renewable energy standard.

(iii) Costs that are not otherwise recoverable in rates approved by the Federal Energy Regulatory Commission and that are related to the infrastructure required to bring renewable energy systems or advanced cleaner energy systems used to achieve compliance with the renewable energy standards on to the transmission system, including interconnection and substation costs for renewable energy systems or advanced cleaner energy systems used to meet the renewable energy standard.

(iv) Ancillary service costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy or advanced cleaner energy used to meet the renewable energy standards, regardless of the ownership of a renewable energy system or advanced cleaner energy technology.

(v) Except to the extent the costs are allocated under a different subparagraph, all of the following:

- (A) The costs of renewable energy credits purchased under this act.
- (B) The costs of contracts described in former section 33(1).

(vi) Expenses incurred as a result of state or federal governmental actions related to renewable energy systems or advanced cleaner energy systems attributable to the renewable energy standards, including changes in tax or other law.

(vii) Any additional electric provider costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy or advanced cleaner energy used to meet the renewable energy standards.

(b) Subtract from the sum of costs not already included in electric rates determined under subdivision (a) the sum of the following revenues:

(i) Revenue derived from the sale of environmental attributes associated with the generation of renewable energy or advanced cleaner energy systems attributable to the renewable energy standards. Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(ii) Interest on regulatory liabilities.

(iii) Tax credits specifically designed to promote renewable energy or advanced cleaner energy.

(iv) Revenue derived from the provision of renewable energy or advanced cleaner energy to retail electric customers subject to a power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, of an electric provider whose rates are regulated by the commission. After providing an opportunity for a contested case hearing for an electric provider whose rates are regulated by the commission, the commission shall annually establish a price per megawatt hour. An electric provider whose rates are regulated by the commission may at any time petition the commission to revise the price. In setting the price per megawatt hour under this subparagraph, the commission shall consider factors including, but not limited to, projected capacity, energy, maintenance, and operating costs; information filed under section 6j of 1939 PA 3, MCL 460.6j; and information from wholesale markets, including, but not limited to, locational marginal pricing. This price shall be multiplied by the sum of the number of megawatt hours of renewable energy and the number of megawatt hours of advanced cleaner energy used to maintain compliance with the renewable energy standard. The product shall be considered a booked cost of purchased and net interchanged power transactions under section 6j of 1939 PA 3, MCL 460.6j. For energy purchased by such an electric provider under a renewable energy contract or advanced cleaner energy contract, the price shall be the lower of the amount established by the commission or the actual price paid and shall be multiplied by the number of megawatt hours of renewable energy or advanced cleaner energy purchased. The resulting value shall be considered a booked cost of purchased and net interchanged power under section 6j of 1939 PA 3, MCL 460.6j.

(v) Revenue from wholesale renewable energy sales and advanced cleaner energy sales. Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(vi) Any additional electric provider revenue considered by the commission to be attributable to the renewable energy standards.

(vii) Any revenues recovered in rates for renewable energy costs that are included under subdivision (a).

(3) The commission shall authorize an electric provider whose rates are regulated by the commission to spend in any given month more to comply with this act and implement an approved renewable energy plan than the revenue actually generated by the revenue recovery mechanism. An electric provider whose rates are regulated by the commission shall recover its commission approved pre-tax rate of return on regulatory assets during the appropriate period. An electric provider whose rates are regulated by the commission shall record interest on regulatory liabilities at the average short-term borrowing rate available to the electric provider during the appropriate period. Any regulatory assets or liabilities resulting from the recovery of costs of renewable energy or advanced cleaner energy attributable to renewable energy standards through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, shall continue to be reconciled under that section.

(4) If an electric provider's incremental costs of compliance in any given month during the 20-year period beginning when the electric provider's plan is approved by the commission are in excess of the revenue recovery mechanism as adjusted under section 49 and in excess of the balance of any accumulated reserve funds, subject to the minimum balance established under section 49, the electric provider shall immediately notify the commission. The commission shall promptly commence a contested case hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and modify the revenue recovery mechanism so that the minimum balance is restored. However, if the commission determines that recovery of the incremental costs of compliance would otherwise exceed the maximum retail rate impacts specified under section 45, it shall set the revenue recovery mechanism for that electric provider to correspond to the maximum retail rate impacts. Excess costs shall be accrued and deferred for recovery. Not later than the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, for an electric provider whose rates are regulated by the commission, the commission shall determine the amount of deferred costs to be recovered under the revenue recovery mechanism and the recovery period, which shall not extend more than 5 years beyond the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission. The recovery of excess costs shall be proportional to the retail rate impact limits in section 45 for each customer class. The recovery of excess costs alone, or, if

begun before the expiration of the 20-year period, in combination with the recovery of incremental costs of compliance under the revenue recovery mechanism, shall not exceed the retail rate impact limits of section 45 for each customer class.

(5) If, at the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, an electric provider whose rates are regulated by the commission has a regulatory liability, the refund to customer classes shall be proportional to the amounts paid by those customer classes under the revenue recovery mechanism.

(6) After achieving compliance with the renewable energy standard for 2015, the actual costs reasonably and prudently incurred to continue to comply with this subpart both during and after the conclusion of the 20-year period beginning when the electric provider's plan is approved by the commission shall be considered costs of service. The commission shall determine a mechanism for an electric provider whose rates are regulated by the commission to recover these costs in its retail electric rates, subject to the retail rate impact limits in section 45. Remaining and future regulatory assets shall be recovered consistent with subsections (3) and (4) and section 49.

(7) As used in this section:

(a) "Advanced cleaner energy" means electricity generated using an advanced cleaner energy system.

(b) "Advanced cleaner energy system" means any of the following:

(i) A gasification facility.

(ii) A cogeneration facility.

(iii) A coal-fired electric generating facility if 85% or more of the carbon dioxide emissions are captured and permanently geologically sequestered or used for other commercial or industrial purposes that do not result in release of carbon dioxide to the atmosphere.

(iv) A hydroelectric pumped storage facility.

(v) An electric generating facility or system that uses technologies not in commercial operation on October 6, 2008 and that the commission determines has carbon dioxide emissions benefits or will significantly reduce other regulated air emissions.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1049 Renewable cost reconciliation; commencement; contested case proceeding; discovery; modifications of revenue recovery mechanism; reconciliation of revenues with amounts actually expensed and projected; duties of commission; interest accrual; "advanced cleaner energy" defined.

Sec. 49. (1) This section applies only to an electric provider whose rates are regulated by the commission. The commission shall commence an annual proceeding, to be known as a renewable cost reconciliation, for each electric provider whose rates are regulated by the commission. The renewable cost reconciliation proceeding shall be conducted as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Reasonable discovery shall be permitted before and during the reconciliation proceeding to assist in obtaining evidence concerning reconciliation issues including, but not limited to, the reasonableness and prudence of expenditures and the amounts collected pursuant to the revenue recovery mechanism.

(2) At the renewable cost reconciliation, an electric provider may propose any necessary modifications of the revenue recovery mechanism to ensure the electric provider's recovery of its incremental cost of compliance with the renewable energy standards.

(3) The commission shall reconcile the pertinent revenues recorded and the allowance for the nonvolumetric revenue recovery mechanism with the amounts actually expensed and projected according to the electric provider's renewable energy plan. The commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged in the relevant reconciliation period. In its order, the commission shall do all of the following:

(a) Make a determination of an electric provider's compliance with the renewable energy standards.

(b) Adjust the revenue recovery mechanism for the incremental costs of compliance. The commission shall ensure that the retail rate impacts under this renewable cost reconciliation revenue recovery mechanism do not exceed the maximum retail rate impacts specified under section 45. The commission shall ensure that the recovery mechanism is projected to maintain a minimum balance of accumulated reserve so that a regulatory asset does not accrue.

(c) Establish the price per megawatt hour for renewable energy and advanced cleaner energy capacity and for renewable energy and advanced cleaner energy to be recovered through the power supply cost recovery

clause under section 6j of 1939 PA 3, MCL 460.6j, as outlined in section 47(2)(b)(iv).

(d) Adjust, if needed, the minimum balance of accumulated reserve funds described in subdivision (b).

(4) If an electric provider has recorded a regulatory liability in any given month during the 20-year period beginning when the electric provider's renewable energy plan was approved by the commission, interest on the regulatory liability balance shall be accrued at the average short-term borrowing rate available to the electric provider during the appropriate period, and shall be used to fund incremental costs of compliance incurred in subsequent periods within the 20-year period beginning when the electric provider's plan was approved by the commission.

(5) As used in this section, "advanced cleaner energy" means that term as defined in section 47.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1051 Repealed. 2016, Act 342, Eff. Jan. 1, 2023.

Compiler's note: The repealed section pertained to required reports.

460.1053 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to failure to meet renewable energy credit standard by deadline.

460.1054 Powers of local units of government under MCL 125.3101 to 125.3702.

Sec. 54. Nothing in this subpart abrogates the powers granted to local units of government under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702.

History: Add. 2016, Act 342, Eff. Apr. 20, 2017.