

HOUSE BILL No. 6686

November 19, 2008, Introduced by Reps. Nofs and Moore and referred to the Committee on Energy and Technology.

A bill to amend 2008 PA 295, entitled "Clean, renewable, and efficient energy act," by amending sections 21, 23, and 25 (MCL 460.1021, 460.1023, and 460.1025).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) This section applies only to electric providers
2 whose rates are regulated by the commission.

3 (2) Each electric provider shall file a proposed renewable
4 energy plan with the commission within 90 days after the commission
5 issues a temporary order under section ~~171~~191. The proposed plan
6 shall meet all of the following requirements:

7 (a) Describe how the electric provider will meet the renewable
8 energy standards.

9 (b) Specify whether the number of megawatt hours of

1 electricity used in the calculation of the renewable energy credit
2 portfolio will be weather-normalized or based on the average number
3 of megawatt hours of electricity sold by the electric provider
4 annually during the previous 3 years to retail customers in this
5 state. Once the plan is approved by the commission, this option
6 shall not be changed.

7 (c) Include the expected incremental cost of compliance with
8 the renewable energy standards for a 20-year period beginning when
9 the plan is approved by the commission.

10 (d) For an electric provider that had 1,000,000 or more retail
11 customers in this state on January 1, 2008, describe the bidding
12 process to be used by the electric provider under section 33. The
13 description shall include measures to be employed in the
14 preparation of requests for proposals and the handling and
15 evaluation of proposals received to ensure that any bidder that is
16 an affiliate of the electric utility is not afforded a competitive
17 advantage over any other bidder and that each bidder, including any
18 bidder that is an affiliate of the electric provider, is treated in
19 a fair and nondiscriminatory manner.

20 (3) The proposed plan shall establish a nonvolumetric
21 mechanism for the recovery of the incremental costs of compliance
22 within the electric provider's customer rates. The revenue recovery
23 mechanism shall not result in rate impacts that exceed the monthly
24 maximum retail rate impacts specified under section 45. The revenue
25 recovery mechanism is subject to adjustment under sections 47(4)
26 and 49. A customer participating in a commission-approved voluntary
27 renewable energy program under an agreement in effect on the

1 ~~effective date of this act~~ **OCTOBER 6, 2008** shall not incur charges
2 under the revenue recovery mechanism unless the charges under the
3 revenue recovery mechanism exceed the charges the customer is
4 incurring for the voluntary renewable energy program. In that case,
5 the customer shall only incur the difference between the charge
6 assessed under the revenue recovery mechanism and the charges the
7 customer is incurring for the voluntary renewable energy program.
8 The limitation on charges applies only during the term of the
9 agreement, not including automatic agreement renewals, or until ~~±~~
10 ~~year after the effective date of this act~~ **OCTOBER 6, 2009,**
11 whichever is later. Before entering an agreement with a customer to
12 participate in a commission-approved voluntary renewable energy
13 program and before the last automatic monthly renewal of such an
14 agreement that will occur ~~less than 1 year after the effective date~~
15 ~~of this act~~ **BEFORE OCTOBER 6, 2009,** an electric provider shall
16 notify the customer that the customer will be responsible for the
17 full applicable charges under the revenue recovery mechanism and
18 under the voluntary renewable energy program as provided under this
19 subsection.

20 (4) If proposed by the electric provider in its proposed plan,
21 the revenue recovery mechanism shall result in an accumulation of
22 reserve funds in advance of expenditure and the creation of a
23 regulatory liability that accrues interest at the average short-
24 term borrowing rate available to the electric provider during the
25 appropriate period. If proposed by the electric provider in its
26 proposed plan, the commission shall establish a minimum balance of
27 accumulated reserve funds for the purposes of section 47(4).

1 (5) The commission shall conduct a contested case hearing on
2 the proposed plan filed under subsection (2), pursuant to the
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
4 24.328. If a renewable energy generator files a petition to
5 intervene in the contested case in the manner prescribed by the
6 commission's rules for interventions generally, the commission
7 shall grant the petition. Subject to subsections (6) and (10),
8 after the hearing and within 90 days after the proposed plan is
9 filed with the commission, the commission shall approve, with any
10 changes consented to by the electric provider, or reject the plan.

11 (6) The commission shall not approve an electric provider's
12 plan unless the commission determines both of the following:

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

17 (b) That the life-cycle cost of renewable energy acquired or
18 generated under the plan less the projected life-cycle net savings
19 associated with the provider's energy optimization plan does not
20 exceed the expected life-cycle cost of electricity generated by a
21 new conventional coal-fired facility. In ~~determining the expected~~
22 ~~life cycle cost of electricity generated by a new conventional~~
23 ~~coal-fired facility~~ **MAKING THIS DETERMINATION**, the commission shall
24 consider data from this state and the states of Ohio, Indiana,
25 Illinois, Wisconsin, and Minnesota, including, if applicable, the
26 life-cycle costs of the renewable energy system and new
27 conventional coal-fired facilities. When determining the life-cycle

1 costs of the renewable energy system and new conventional coal-
2 fired facilities, the commission shall use a methodology that
3 includes, but is not limited to, consideration of the value of
4 energy, capacity, and ancillary services. The commission shall also
5 consider other costs such as transmission, economic benefits, and
6 environmental costs, including, but not limited to, greenhouse gas
7 constraints or taxes. In performing its assessment, the commission
8 may utilize other available data, including national or regional
9 reports and data published by federal or state governmental
10 agencies, industry associations, and consumer groups.

11 (7) An electric provider shall not begin recovery of the
12 incremental costs of compliance within its rates until the
13 commission has approved its proposed plan.

14 (8) Every 2 years after initial approval of a plan under
15 subsection (5), the commission shall review the plan. The
16 commission shall conduct a contested case hearing on the plan
17 pursuant to the administrative procedures act of 1969, 1969 PA 306,
18 MCL 24.201 to 24.328. The annual renewable cost reconciliation
19 under section 49 for that year may be joined with the overall plan
20 review in the same contested case hearing. Subject to subsections
21 (6) and (10), after the hearing, the commission shall approve, with
22 any changes consented to by the electric provider, or reject the
23 plan and any proposed amendments to the plan.

24 (9) If an electric provider proposes to amend its plan at a
25 time other than during the biennial review process under subsection
26 (8), the electric provider shall file the proposed amendment with
27 the commission. If the proposed amendment would modify the revenue

1 recovery mechanism, the commission shall conduct a contested case
2 hearing on the amendment pursuant to the administrative procedures
3 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The annual
4 renewable cost reconciliation under section 49 may be joined with
5 the plan amendment in the same contested case proceeding. Subject
6 to subsections (6) and (10), after the hearing and within 90 days
7 after the amendment is filed, the commission shall approve, with
8 any changes consented to by the electric provider, or reject the
9 plan and the proposed amendment or amendments to the plan.

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

13 Sec. 23. (1) This section applies only to alternative electric
14 suppliers and cooperative electric utilities that have elected to
15 become member-regulated under the electric cooperative member-
16 regulation act, 2008 PA 167, MCL 460.31 to 460.39.

17 (2) Each alternative electric supplier or cooperative electric
18 utility shall file a proposed renewable energy plan with the
19 commission within 90 days or 120 days, respectively, after the
20 commission issues a temporary order under section ~~171~~191. The
21 proposed plan shall meet all of the following requirements:

22 (a) Describe how the electric provider will meet the renewable
23 energy standards.

24 (b) Specify whether the number of megawatt hours of
25 electricity used in the calculation of the renewable energy
26 portfolio will be weather-normalized or based on the average number
27 of megawatt hours of electricity sold by the electric provider

1 annually during the previous 3 years to retail customers in this
2 state. Once the plan is approved by the commission, this option
3 shall not be changed.

4 (3) The commission shall provide an opportunity for public
5 comment on the proposed plan filed under subsection (2). After the
6 opportunity for public comment and within 90 days after the
7 proposed plan is filed with the commission, the commission shall
8 approve, with any changes consented to by the electric provider, or
9 reject the plan.

10 (4) Every 2 years after initial approval of a plan under
11 subsection (3), the commission shall review the plan. The
12 commission shall provide an opportunity for public comment on the
13 plan. After the opportunity for public comment, the commission
14 shall approve, with any changes consented to by the electric
15 provider, or reject any proposed amendments to the plan.

16 (5) If an electric provider proposes to amend its plan at a
17 time other than during the biennial review process under subsection
18 (4), the electric provider shall file the proposed amendment with
19 the commission. The commission shall provide an opportunity for
20 public comment on the amendment. After the opportunity for public
21 comment and within 90 days after the amendment is filed, the
22 commission shall approve, with any changes consented to by the
23 electric provider, or reject the amendment.

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

27 Sec. 25. (1) This section applies only to municipally-owned

1 electric utilities.

2 (2) Each electric provider shall file a proposed renewable
3 energy plan with the commission within 120 days after the
4 commission issues a temporary order under section ~~171~~191. Two or
5 more electric providers that each serve fewer than 15,000 customers
6 may file jointly. The proposed plan shall meet all of the following
7 requirements:

8 (a) Describe how the provider will meet the renewable energy
9 standards.

10 (b) Specify whether the number of megawatt hours of
11 electricity used in the calculation of the renewable energy credit
12 portfolio will be weather-normalized or based on the average number
13 of megawatt hours of electricity sold by the electric provider
14 annually during the previous 3 years to retail customers in this
15 state. Once the commission determines that the proposed plan
16 complies with this act, this option shall not be changed.

17 (c) Include the expected incremental cost of compliance with
18 the renewable energy standards.

19 (d) Describe the manner in which the provider will allocate
20 costs.

21 (3) Subject to subsection (6), the commission shall provide an
22 opportunity for public comment on the proposed plan filed under
23 subsection (2). After the applicable opportunity for public comment
24 and within 90 days after the proposed plan is filed with the
25 commission, the commission shall determine whether the proposed
26 plan complies with this act.

27 (4) Every 2 years after the commission initially determines

1 under subsection (3) that a renewable energy plan complies with
2 this act, the commission shall review the plan. Subject to
3 subsection (6), the commission shall provide an opportunity for
4 public comment on the plan. After the applicable opportunity for
5 public comment, the commission shall determine whether any
6 amendment to the plan proposed by the provider complies with this
7 act. The proposed amendment is adopted if the commission determines
8 that it complies with this act.

9 (5) If a provider proposes to amend its renewable energy plan
10 at a time other than during the biennial review process under
11 subsection (4), the provider shall file the proposed amendment with
12 the commission. Subject to subsection (6), the commission shall
13 provide an opportunity for public comment on the amendment. After
14 the applicable opportunity for public comment and within 90 days
15 after the amendment is filed, the commission shall determine
16 whether the proposed amendment to the plan complies with this act.
17 The proposed amendment is adopted if the commission determines that
18 it complies with this act.

19 (6) The commission need not provide an opportunity for public
20 comment under subsection (3), (4), or (5) if the governing body of
21 the provider has already provided an opportunity for public comment
22 and filed the comments with the commission.

23 (7) If the commission determines that a proposed plan or
24 amendment under this section does not comply with this act, the
25 commission shall explain in writing the reasons for its
26 determination.