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Senate Bill 504 (as introduced 9-19-23)
Sponsor: Senator Kristen McDonald Rivet
Committee: Energy and Environment

(Senate-passed version)

Date Completed: 3-6-24

CONTENT

The bill would amend the public service commission Act to provide that a long-term industrial load rate (LTILR) would not be subject to any securitization charges approved by the Michigan Public Service Commission (MPSC) if the customer were taking service under an LTILR on the effective date of the finance order.

Among other things, the Act allows the MPSC to establish LTILRs for industrial customers. An electric utility may propose an LTILR in a general rate case filing or in a stand-alone proceeding. The MPSC must approve any contract for a term proposed by an electric utility under an LTILR if there is a net benefit to the electric utility's customers resulting from participation in the LTILR compared to the industrial customer not purchasing standard tariff service from the electric utility, among other requirements. Generally, under the Act, a utility may dedicate a specific power supply source, such as a power plant, to a customer, through an agreement which would last for a minimum of 15 years.

The Act also authorizes the use of securitization. Generally, a utility may apply to the MPSC for a financing order that allows it to replace existing debt and equity with lower-cost debt in the form of securitization bonds, which have lower interest rates.¹ Ratepayers must pay a securitization charge; however, the savings that result from lower interest rates are returned to ratepayers in the form of a bill credit.

Under the bill, an LTILR would not be subject to any securitization charges approved by the MPSC under a financing order issued after the bill's effective date if the customer took service under an LTILR on the effective date of the financing order.

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BACKGROUND

In 2019, Consumers Energy reached a settlement agreement to retire two coal plants, D.E. Karn units 1 and 2, by 2023. The company also agreed to seek recovery of the unrecovered book balance of these units. In 2020, to retire this debt, Consumers Energy applied to the MPSC for a financing order approving the securitization of \$702.8 million in bonds. Ultimately, the MPSC ordered \$677.7 million for the value of the bonds.

Consumers Energy sold these bonds to five underwriters (see below) and settled its unrecovered book balance; however, the company is responsible for billing ratepayers, collecting securitization charges, and submitting them to these underwriters. These charges vary by class (i.e., industrial, commercial, and residential) but are, within each class, a uniform per kilowatt-hour charge.

¹ Generally, the period of billing for securitization charges may not exceed 15 years.

Principal Amount of Bonds Purchased²

Underwriter	Tranche A-1	Tranche A-2	Total
Citigroup Global Market Inc.	\$126.5 million	\$257.4 million	\$419.9 million
RBC Capital Markets, LLC	31.25 million	49.5 million	80.75 million
SMBC Nikko Securities America, Inc.	31.25 million	49.5 million	80.75 million
Drexel Hamilton, LLC	12.5 million	19.8 million	32.3 million
Samuel A. Ramirez & Company, Inc.	12.5 million	19.8 million	32.3 million
Total	\$250.0 million	\$393.0 million	\$646.0 million

Tranche A-1 is scheduled to be paid off by March 2027.³ Tranche A-2 is scheduled to be paid off by March 2030. The first payment cycle is scheduled to begin on September 1, 2024.

On January 15, 2021, Hemlock Semiconductor Operations, a large manufacturer of polycrystalline silicon used in solar panels, filed an appeal of the MPSC's order with the Michigan Court of Appeals. The company claimed that it was Consumers Energy's largest single ratepayer and argued that, because it had a Long-Term Industrial Load Retention Rate contract with Consumers Energy established before the financing order, the securitization charge from the bonds should not apply to it.⁴ Ultimately, Hemlock Semiconductor's Operations' appeal was rejected.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Analyst: Nathan Leaman

² Consumers Energy, Thirty (30) Day Securitization Report, p. II-1, January 11, 2024.

³ "Tranche" means any one of the groupings of Securitization Bonds differentiated by payment date schedule, amortization schedule, sinking fund schedule, maturity date or interest rate, as specified in the Series Supplement.

⁴ *Hemlock Semiconductor Operations v. Michigan Public Service Commission*, 339 Mich App 346 (2021).

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.