

SENATE BILL NO. 502

September 14, 2023, Introduced by Senator SHINK and referred to the Committee on Energy and Environment.

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the powers and duties of certain state governmental officers and entities; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to

qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The public service commission is vested with
 2 complete power and jurisdiction to regulate all public utilities in
 3 the state except a municipally owned utility, the owner of a
 4 renewable resource power production facility as provided in section
 5 6d, and except as otherwise restricted by law. The public service
 6 commission is vested with the power and jurisdiction to regulate
 7 all rates, fares, fees, charges, services, rules, conditions of
 8 service, and all other matters pertaining to the formation,
 9 operation, or direction of public utilities. The public service
 10 commission is further granted the power and jurisdiction to hear
 11 and pass upon all matters pertaining to, necessary, or incident to
 12 the regulation of public utilities, including electric light and
 13 power companies, whether private, corporate, or cooperative; water,
 14 telegraph, oil, gas, and pipeline companies; motor carriers;
 15 private wastewater treatment facilities; and all public
 16 transportation and communication agencies other than railroads and
 17 railroad companies.

18 (2) A private, investor-owned wastewater utility may apply to

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

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

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

15 (b) Service quality in this state.

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

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

23 (ii) Any definitions of affordability adopted by the
24 commission.

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

28 (e) Minimization of harm and prioritization of benefits in
29 communities consisting predominately of minorities or households

1 below the poverty line where factors, including socioeconomic
2 stressors, disproportionate cost and environmental burdens,
3 vulnerability to environmental degradation, and lack of
4 accessibility in public participation, may act cumulatively to
5 affect public health and the environment and contribute to
6 persistent disparities.

7 (f) Compliance with state public policy goals for the utility
8 sector, including the goals of meeting 60% of this state's
9 electricity needs using renewable energy by 2040 and meeting 100%
10 of this state's electricity needs using carbon-free energy by 2040.

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

13 Sec. 6a. (1) A gas utility, electric utility, or steam utility
14 shall not increase its rates and charges or alter, change, or amend
15 any rate or rate schedules, the effect of which will be to increase
16 the cost of services to its customers, without first receiving
17 commission approval as provided in this section. A utility shall
18 coordinate with the commission staff in advance of filing its
19 general rate case application under this section to avoid resource
20 challenges with applications being filed at the same time as
21 applications filed under this section by other utilities. In the
22 case of electric utilities serving more than 1,000,000 customers in
23 this state, the commission may, if necessary, order a delay in
24 filing an application to establish a 21-day spacing between filings
25 of electric utilities serving more than 1,000,000 customers in this
26 state. The utility shall place in evidence facts relied upon to
27 support the utility's petition or application to increase its rates
28 and charges, or to alter, change, or amend any rate or rate
29 schedules. The commission shall require notice to be given to all

1 interested parties within the service area to be affected, and ~~all~~
2 **allow** interested parties ~~shall have~~ a reasonable opportunity for a
3 full and complete hearing. A utility may use projected costs and
4 revenues for a future consecutive 12-month period in developing its
5 requested rates and charges. The commission shall notify the
6 utility within 30 days after filing, whether the utility's petition
7 or application is complete. A petition or application is considered
8 complete if it complies with the rate application filing forms and
9 instructions adopted under subsection (8). If the application is
10 not complete, the commission shall notify the utility of all
11 information necessary to make that filing complete. If the
12 commission has not notified the utility within 30 days of whether
13 the utility's petition or application is complete, the application
14 is considered complete. Concurrently with filing a complete
15 application, or at any time after filing a complete application, a
16 gas utility serving fewer than 1,000,000 customers in this state
17 may file a motion seeking partial and immediate rate relief. After
18 providing notice to the interested parties within the service area
19 to be affected and affording interested parties a reasonable
20 opportunity to present written evidence and written arguments
21 relevant to the motion seeking partial and immediate rate relief,
22 the commission shall make a finding and enter an order granting or
23 denying partial and immediate relief within 180 days after the
24 motion seeking partial and immediate rate relief was submitted. The
25 commission has 12 months to issue a final order in a case in which
26 a gas utility has filed a motion seeking partial and immediate rate
27 relief. **In approving a utility's petition or application to**
28 **increase its rates and charges, or to alter, change, or amend any**
29 **rate or rate schedules, the commission must consider and address**

1 whether the petition or application promotes the public interest.
2 In assessing whether the petition or application promotes the
3 public interest, the commission shall consider the goals in section
4 6(3) and any significant issues raised in a public input hearing
5 under section 6aa.

6 (2) If the commission has not issued an order within 180 days
7 ~~of~~**after** the filing of a complete application, the utility may
8 implement up to the amount of the proposed annual rate request
9 through equal percentage increases or decreases applied to all base
10 rates. If the utility uses projected costs and revenues for a
11 future period in developing its requested rates and charges, the
12 utility may not implement the equal percentage increases or
13 decreases before the calendar date corresponding to the start of
14 the projected 12-month period. For good cause, the commission may
15 issue a temporary order preventing or delaying a utility from
16 implementing its proposed rates or charges. If a utility implements
17 increased rates or charges under this subsection before the
18 commission issues a final order, that utility shall refund to
19 customers, with interest, any portion of the total revenues
20 collected through application of the equal percentage increase that
21 exceed the total that would have been produced by the rates or
22 charges subsequently ordered by the commission in its final order.
23 The commission shall allocate any refund required by this
24 subsection among primary customers based upon their pro rata share
25 of the total revenue collected through the applicable increase, and
26 among secondary and residential customers in a manner to be
27 determined by the commission. The rate of interest for refunds
28 ~~shall equal~~**is** 5% plus the London interbank offered rate (LIBOR)
29 for the appropriate time period. For any portion of the refund

1 that, exclusive of interest, exceeds 25% of the annual revenue
2 increase awarded by the commission in its final order, the rate of
3 interest ~~shall be~~ **is** the authorized rate of return on the common
4 stock of the utility during the appropriate period. Any refund or
5 interest awarded under this subsection ~~shall~~ **must** not be included,
6 in whole or in part, in any application for a rate increase by a
7 utility. This subsection only applies to completed applications
8 filed with the commission before ~~the effective date of the~~
9 ~~amendatory act that added section 6t.~~ **April 20, 2017.**

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

25 (4) The commission shall adopt rules and procedures for the
26 filing, investigation, and hearing of petitions or applications to
27 increase or decrease utility rates and charges as the commission
28 finds necessary or appropriate to enable it to reach a final
29 decision with respect to petitions or applications within a period

1 of time allotted by law to issue a final order after the filing of
2 the complete petitions or applications. The commission shall not
3 authorize or approve adjustment clauses that operate without notice
4 and an opportunity for a full and complete hearing, and all such
5 clauses are abolished. The commission may hold a full and complete
6 hearing to determine the cost of fuel, purchased gas, purchased
7 steam, or purchased power separately from a full and complete
8 hearing on a general rate case and may hold that hearing
9 concurrently with the general rate case. The commission shall
10 authorize a utility to recover the cost of fuel, purchased gas,
11 purchased steam, or purchased power only to the extent that the
12 purchases are reasonable and prudent.

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

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

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

24 (8) The commission shall adopt standard rate application
25 filing forms and instructions for use in all general rate cases
26 filed by utilities whose rates are regulated by the commission. For
27 cooperative electric utilities whose rates are regulated by the
28 commission, in addition to rate applications filed under this
29 section, the commission shall continue to allow for rate filings

1 based on the cooperative's times interest earned ratio. The
2 commission may modify the standard rate application forms and
3 instructions adopted under this subsection.

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

20 (10) The total aggregate additional amounts recoverable by
21 merchant plants under subsection (9) in excess of the amounts paid
22 under the contracts ~~shall~~**must** not exceed \$1,000,000.00 per month
23 for each affected electric utility. The \$1,000,000.00 per month
24 limit specified in this subsection ~~shall~~**must** be reviewed by the
25 commission upon petition of the merchant plant filed no more than
26 once per year and may be adjusted if the commission finds that the
27 eligible merchant plants reasonably and prudently incurred actual
28 fuel and variable operation and maintenance costs exceed the amount
29 that those merchant plants are paid under the contract by more than

1 \$1,000,000.00 per month. The annual amount of the adjustments ~~shall~~
2 **must** not exceed a rate equal to the United States ~~consumer price~~
3 ~~index~~. **Consumer Price Index**. The commission shall not make an
4 adjustment unless each affected merchant plant files a petition
5 with the commission. If the total aggregate amount by which the
6 eligible merchant plants reasonably and prudently incurred actual
7 fuel and variable operation and maintenance costs determined by the
8 commission exceed the amount that the merchant plants are paid
9 under the contract by more than \$1,000,000.00 per month, the
10 commission shall allocate the additional \$1,000,000.00 per month
11 payment among the eligible merchant plants based upon the
12 relationship of excess costs among the eligible merchant plants.
13 The \$1,000,000.00 limit specified in this subsection, as adjusted,
14 does not apply to actual fuel and variable operation and
15 maintenance costs that are incurred due to changes in federal or
16 state environmental laws or regulations that are implemented after
17 October 6, 2008. The \$1,000,000.00 per month payment limit under
18 this subsection does not apply to merchant plants eligible under
19 subsection (9) whose electricity is purchased by a utility that is
20 using wood or wood waste or fuels derived from those materials for
21 fuel in their power plants. As used in this subsection, "United
22 States ~~consumer price index~~" **Consumer Price Index**" means the United
23 States ~~consumer price index~~ **Consumer Price Index** for all urban
24 consumers as defined and reported by the United States Department
25 of Labor, Bureau of Labor Statistics.

26 (11) The commission shall issue orders to permit the recovery
27 authorized under subsections (9) and (10) upon petition of the
28 merchant plant. The merchant plant is not required to alter or
29 amend the existing contract with the electric utility in order to

1 obtain the recovery under subsections (9) and (10). The commission
2 shall permit or require the electric utility whose rates are
3 regulated by the commission to recover from its ratepayers all fuel
4 and variable operation and maintenance costs that the electric
5 utility is required to pay to the merchant plant as reasonably and
6 prudently incurred costs.

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

16 (a) That the projected sales forecast in the utility's most
17 recent rate case is reasonable.

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

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

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

26 (13) The commission shall consider the aggregate revenues
27 attributable to revenue decoupling mechanisms, financial
28 incentives, and shared savings mechanisms the commission has
29 approved for an electric utility relative to energy waste

1 reduction, conservation, demand-side programs, peak load reduction,
 2 and other waste reduction measures. The commission may approve an
 3 alternative methodology for a revenue decoupling mechanism
 4 authorized under subsection (12), a financial incentive authorized
 5 under section 75 of the clean and renewable energy and energy waste
 6 reduction act, 2008 PA 295, MCL 460.1075, or a shared savings
 7 mechanism authorized under section 6x if the commission determines
 8 that the resulting aggregate revenues from those mechanisms would
 9 not result in a reasonable and cost-effective method to ensure that
 10 investments in energy waste reduction, demand-side programs, peak
 11 load reduction, and other waste reduction measures are not
 12 disfavored when compared to utility supply-side investments. The
 13 commission's consideration of an alternative methodology under this
 14 subsection ~~shall~~ **must** be conducted as a contested case ~~pursuant to~~
 15 **in accordance with** chapter 4 of the administrative procedures act
 16 of 1969, 1969 PA 306, MCL 24.271 to ~~24.287~~.**24.288**.

17 (14) ~~Within 1 year after the effective date of the amendatory~~
 18 ~~act that added this subsection,~~ **By April 20, 2018,** the commission
 19 shall conduct a study on an appropriate tariff reflecting equitable
 20 cost of service for utility revenue requirements for customers who
 21 participate in a net metering program or distributed generation
 22 program under the clean and renewable energy and energy waste
 23 reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. In any rate
 24 case filed after June 1, 2018, the commission shall approve such a
 25 tariff for inclusion in the rates of all customers participating in
 26 a net metering or distributed generation program under the clean
 27 and renewable energy and energy waste reduction act, 2008 PA 295,
 28 MCL 460.1001 to 460.1211. A tariff established under this
 29 subsection does not apply to customers participating in a net

1 metering program under the clean and renewable energy and energy
2 waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211, before
3 the date that the commission establishes a tariff under this
4 subsection, who continues to participate in the program at their
5 current site or facility.

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

9 (16) As used in this section:

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

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

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

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

1 time directed by the board.

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

8 (a) In the case of an energy utility company serving at least
 9 100,000 customers in this state, its proportional share of
 10 ~~\$900,000.00~~ **\$1,800,000.00** adjusted annually by a factor as provided
 11 in subsection (4). This adjusted amount ~~shall become~~ **is** the new
 12 base amount to which the factor provided in subsection (4) is
 13 applied in the succeeding year. A utility's proportional share
 14 ~~shall~~ **must** be calculated by dividing the company's jurisdictional
 15 total operating revenues for the preceding year, as stated in its
 16 annual report, by the total operating revenues for the preceding
 17 year of all energy utility companies serving at least 100,000
 18 customers in this state. ~~This amount~~ **The board** shall ~~be made~~ **make**
 19 **this amount** available ~~by the board~~ for use by the attorney general
 20 for the purposes described in subsection (16).

21 (b) In the case of an energy utility company serving at least
 22 100,000 residential customers in this state, its proportional share
 23 of ~~\$650,000.00~~ **\$1,300,000.00** adjusted annually by a factor as
 24 provided in subsection (4). This adjusted amount ~~shall become~~ **is**
 25 the new base amount to which the factor provided in subsection (4)
 26 is applied in the succeeding year. A utility's proportional share
 27 ~~shall~~ **must** be calculated by dividing the company's jurisdictional
 28 gross revenues from residential tariff sales for the preceding year
 29 by the gross revenues from residential tariff sales for the

1 preceding year of all energy utility companies serving at least
 2 100,000 residential customers in this state. This amount ~~shall~~**must**
 3 be used for grants under subsection (10).

4 (c) In the case of an energy utility company serving fewer
 5 than 100,000 customers in this state, its proportional share of
 6 \$100,000.00 adjusted annually by a factor as provided in subsection
 7 (4). This adjusted amount ~~shall become~~**is** the new base amount to
 8 which the factor provided in subsection (4) is applied in the
 9 succeeding year. A utility's proportional share ~~shall~~**must** be
 10 calculated by dividing the company's jurisdictional total operating
 11 revenues for the preceding year, as stated in its annual report, by
 12 the total operating revenues for the preceding year of all energy
 13 utility companies serving fewer than 100,000 customers in this
 14 state. ~~This amount~~**The board shall be made**~~make this amount~~
 15 available ~~by the board~~ for use by the attorney general for the
 16 purposes described in subsection (16).

17 (d) In the case of an energy utility company serving fewer
 18 than 100,000 residential customers in this state, its proportional
 19 share of \$100,000.00 adjusted annually by a factor as provided in
 20 subsection (4). This adjusted amount ~~shall become~~**is** the new base
 21 amount to which the factor provided in subsection (4) is applied in
 22 the succeeding year. A utility's proportional share ~~shall~~**must** be
 23 calculated by dividing the company's jurisdictional gross revenues
 24 from residential tariff sales for the preceding year by the gross
 25 revenues from residential tariff sales for the preceding year of
 26 all energy utility companies serving fewer than 100,000 residential
 27 customers in this state. This amount ~~shall~~**must** be used for grants
 28 under subsection (10).

29 (3) Payments made by an energy utility under subsection (2) (a)

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

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

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

23 (6) In the event of a dispute between the board and an energy
24 utility about the amount of payment due, the utility shall pay the
25 undisputed amount and, if the utility and the board cannot agree,
26 the board may initiate civil action in the circuit court for Ingham
27 County for recovery of the disputed amount. The commission shall
28 not accept or take action on an application for an energy cost
29 recovery proceeding from an energy utility subject to this section

1 that has not fully paid undisputed remittances required by this
2 section.

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

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

13 (9) The costs of operation and expenses incurred by the board
14 in performing its duties under this section and section 61,
15 including remuneration to board members, ~~shall~~**must** be paid from
16 the fund. A maximum of 5% of the annual receipts of the fund may be
17 budgeted and used to pay expenses other than grants made under
18 subsection (10).

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

23 (11) The board shall create and make available to applicants
24 an application form. Each applicant shall indicate on the
25 application how the applicant meets the eligibility requirements
26 provided for in this section and how the applicant proposes to use
27 a grant from the fund to participate in 1 or more proceedings as
28 authorized in subsection (16) that have been or are expected to be
29 filed. Each applicant shall also identify on the application any

1 additional funds or resources, other than the grant funds being
2 requested, that are to be used to participate in the proceeding for
3 which the grant is being requested and how those funds or resources
4 will be utilized. The board shall receive an application requesting
5 a grant from the fund only from a nonprofit organization or a unit
6 of local government in this state. The board shall consider only
7 applications for grants containing proposals that are consistent
8 with subsections (16) and (17) and that serve the interests of
9 residential utility consumers. For purposes of making grants, the
10 board may consider energy conservation, energy waste reduction,
11 demand response, and rate design options to encourage energy
12 conservation, energy waste reduction, and demand response, as well
13 as the maintenance of adequate energy resources. The board shall
14 not consider an application that primarily benefits the applicant
15 or a service provided or administered by the applicant. The board
16 shall not consider an application from a nonprofit organization if
17 1 of the organization's principal interests or unifying principles
18 is the welfare of a utility or its investors or employees, or the
19 welfare of 1 or more businesses or industries, other than farms not
20 owned or operated by a corporation, that receive utility service
21 ordinarily and primarily for use in connection with the profit-
22 seeking manufacture, sale, or distribution of goods or services.
23 Mere ownership of securities by a nonprofit organization or its
24 members does not disqualify an application submitted by that
25 organization.

26 (12) The board shall encourage the representation of the
27 interests of identifiable types of residential utility consumers
28 whose interests may differ, including various social and economic
29 classes and areas of the state, and if necessary, may make grants

1 to more than 1 applicant whose applications are related to a
2 similar issue to achieve this type of representation. In addition,
3 the board shall consider and balance the following criteria in
4 determining whether to make a grant to an applicant:

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

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

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

15 (d) The anticipated effect of the proposal contained in the
16 application on residential utility consumers, including the
17 immediate and long-term impacts of the proposal.

18 (e) Evidence demonstrating the potential for continuity of
19 effort and the development of expertise in relation to the proposal
20 contained in the application.

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

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

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

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

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

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

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

29 (b) The board shall attempt to maintain a reasonable

1 relationship between the payments from a particular energy utility
2 and the benefits to consumers of that utility.

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

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

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

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

26 (a) An account of all grant expenditures made by the grant
27 recipient. Expenditures ~~shall~~ **must** be reported within the following
28 categories:

29 (i) Employee and contract for services costs.

1 (ii) Costs of materials and supplies.

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

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

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

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

15 (a) An account of all expenditures made by the attorney
16 general of money received under this section. Expenditures ~~shall~~
17 **must** be reported ~~within~~**in** the following categories:

18 (i) Employee and contract for services costs.

19 (ii) Costs of materials and supplies.

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

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

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

29 Sec. 6t. (1) The commission shall, ~~within 120 days of the~~

1 ~~effective date of the amendatory act that added this section by~~
2 **August 18, 2017** and every 5 years thereafter, commence a proceeding
3 and, in consultation with the ~~Michigan agency for energy, the~~
4 department of ~~environmental quality,~~ **environment, Great Lakes, and**
5 **energy**, and other interested parties, do all of the following as
6 part of the proceeding:

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

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

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

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

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

27 (f) Establish the modeling scenarios and assumptions each
28 electric utility should include in addition to its own scenarios
29 and assumptions in developing its integrated resource plan filed

1 under subsection (3), including, but not limited to, all of the
2 following:

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

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

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

13 (iv) Any regional infrastructure limitations in this state.

14 (v) The projected costs of different types of fuel used for
15 electric generation.

16 (g) Allow other state agencies to provide input regarding any
17 other regulatory requirements that should be included in modeling
18 scenarios or assumptions.

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

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

27 (2) A proceeding commenced under subsection (1) ~~shall~~**must** be
28 completed within 120 days, and ~~shall~~**is** not ~~be~~ a contested case
29 under chapter 4 of the administrative procedures act of 1969, 1969

1 PA 306, MCL 24.271 to ~~24.287.~~**24.288.** The determination of the
2 modeling assumptions for integrated resource plans made under
3 subsection (1) is not considered a final order for purposes of
4 judicial review. The determinations made under subsection (1) are
5 only subject to judicial review as part of the final commission
6 order approving an integrated resource plan under this section.

7 (3) Not later than ~~2 years after the effective date of the~~
8 ~~amendatory act that added this section,~~ **April 20, 2019,** each
9 electric utility whose rates are regulated by the commission shall
10 file with the commission an integrated resource plan that provides
11 a 5-year, 10-year, and 15-year projection of the utility's load
12 obligations and a plan to meet those obligations, to meet the
13 utility's requirements to provide generation reliability, including
14 meeting planning reserve margin and local clearing requirements
15 determined by the commission or the appropriate independent system
16 operator, and to meet all applicable state and federal reliability
17 and environmental regulations over the ensuing term of the plan.
18 The commission shall issue an order establishing filing
19 requirements, including application forms and instructions, and
20 filing deadlines for an integrated resource plan filed by an
21 electric utility whose rates are regulated by the commission. The
22 electric utility's plan may include alternative modeling scenarios
23 and assumptions in addition to those identified under subsection
24 (1).

25 (4) For an electric utility with fewer than 1,000,000
26 customers in this state whose rates are regulated by the
27 commission, the commission may issue an order implementing separate
28 filing requirements, review criteria, and approval standards that
29 differ from those established under subsection (3). An electric

1 utility providing electric tariff service to customers both in this
2 state and in at least 1 other state may design its integrated
3 resource plan to cover all its customers on that multistate basis.
4 If an electric utility has filed a multistate integrated resource
5 plan that includes its service area in this state with the relevant
6 utility regulatory commission in another state in which it provides
7 tariff service to retail customers, the commission shall accept
8 that integrated resource plan filing for filing purposes in this
9 state. However, the commission may require supplemental information
10 if necessary as part of its evaluation and determination of whether
11 to approve the plan. Upon request of an electric utility, the
12 commission may adjust the filing dates for a multistate integrated
13 resource plan filing in this state to place its review on the same
14 timeline as other relevant state reviews.

15 (5) An integrated resource plan ~~shall~~**must** include all of the
16 following:

17 (a) A long-term forecast of the electric utility's sales and
18 peak demand under various reasonable scenarios.

19 (b) The type of generation technology proposed for a
20 generation facility contained in the plan and the proposed capacity
21 of the generation facility, including projected fuel costs under
22 various reasonable scenarios.

23 (c) Projected energy purchased or produced by the electric
24 utility from a renewable energy resource. If the level of renewable
25 energy purchased or produced is projected to drop over the planning
26 periods set forth in subsection (3), the electric utility must
27 demonstrate why the reduction is in the best interest of
28 ratepayers.

29 (d) Details regarding the utility's plan to eliminate energy

1 waste, including the total amount of energy waste reduction
 2 expected to be achieved annually, the cost of the plan, and the
 3 expected savings for its retail customers.

4 (e) An analysis of how the combined amounts of renewable
 5 energy and energy waste reduction achieved under the plan compare
 6 to the renewable energy resources and energy waste reduction goal
 7 provided in section 1 of the clean and renewable energy and energy
 8 waste reduction act, 2008 PA 295, MCL 460.1001. This analysis and
 9 comparison may include renewable energy and capacity in any form,
 10 including generating electricity from renewable energy systems for
 11 sale to retail customers or purchasing or otherwise acquiring
 12 renewable energy credits with or without associated renewable
 13 energy, allowed under section 27 of the clean and renewable energy
 14 and energy waste reduction act, 2008 PA 295, MCL 460.1027, as it
 15 existed before ~~the effective date of the amendatory act that added~~
 16 ~~this section.~~ **April 20, 2017.**

17 (f) **An analysis of how the electric utility's plan complies**
 18 **with the requirement in section 28 of the clean and renewable**
 19 **energy and energy waste reduction act, 2008 PA 295, MCL 460.1028,**
 20 **that 9% of the 60% renewable energy standard is sourced from**
 21 **distributed generation resources. The analysis shall also include**
 22 **proposed incentive programs and ways to eliminate barriers for**
 23 **customers to facilitate compliance with the commitment to**
 24 **distributed generation.**

25 (g) ~~(f)~~ Projected load management and demand response savings
 26 for the electric utility and the projected costs for those
 27 programs.

28 (h) ~~(g)~~ Projected energy and capacity purchased or produced by
 29 the electric utility from a cogeneration resource.

1 **(i)** ~~(h)~~—An analysis of potential new or upgraded electric
2 transmission options for the electric utility.

3 **(j)** ~~(i)~~—Data regarding the utility's current generation
4 portfolio, including the age, capacity factor, licensing status,
5 and remaining estimated time of operation for each facility in the
6 portfolio.

7 **(k)** ~~(j)~~—Plans for meeting current and future capacity needs
8 with the cost estimates for all proposed construction and major
9 investments, including any transmission or distribution
10 infrastructure that would be required to support the proposed
11 construction or investment, and power purchase agreements.

12 **(l)** ~~(k)~~—An analysis of the cost, capacity factor, and viability
13 of all reasonable options available to meet projected energy and
14 capacity needs, including, but not limited to, existing electric
15 generation facilities in this state.

16 **(m)** ~~(l)~~—Projected rate impact for the periods covered by the
17 plan.

18 **(n)** ~~(m)~~—How the utility will comply with all applicable state
19 and federal environmental regulations, laws, and rules, and the
20 projected costs of complying with those regulations, laws, and
21 rules.

22 **(o)** ~~(n)~~—A forecast of the utility's peak demand and details
23 regarding the amount of peak demand reduction the utility expects
24 to achieve and the actions the utility proposes to take in order to
25 achieve that peak demand reduction.

26 **(p)** ~~(o)~~—The projected long-term firm gas transportation
27 contracts or natural gas storage the electric utility will hold to
28 provide an adequate supply of natural gas to any new generation
29 facility.

1 **(q) The impact of the plan on the goals identified in section**
2 **6(3)(c) to (f).**

3 (6) Before filing an integrated resource plan under this
4 section, each electric utility whose rates are regulated by the
5 commission shall issue a request for proposals to provide any new
6 supply-side generation capacity resources needed to serve the
7 utility's reasonably projected electric load, applicable planning
8 reserve margin, and local clearing requirement for its customers in
9 this state and customers the utility serves in other states during
10 the initial 3-year planning period to be considered in each
11 integrated resource plan to be filed under this section. An
12 electric utility shall define qualifying performance standards,
13 contract terms, technical competence, capability, reliability,
14 creditworthiness, past performance, and other criteria that
15 responses and respondents to the request for proposals must meet in
16 order to be considered by the utility in its integrated resource
17 plan to be filed under this section. Respondents to a request for
18 proposals may request that certain proprietary information be
19 exempt from public disclosure as allowed by the commission. A
20 utility that issues a request for proposals under this subsection
21 shall use the resulting proposals to inform its integrated resource
22 plan filed under this section and include all of the submitted
23 proposals as attachments to its integrated resource plan filing
24 regardless of whether the proposals met the qualifying performance
25 standards, contract terms, technical competence, capability,
26 reliability, creditworthiness, past performance, or other criteria
27 specified for the utility's request for proposals under this
28 section. An existing supplier of electric generation capacity
29 currently producing at least 200 megawatts of firm electric

1 generation capacity resources located in the independent system
2 operator's zone in which the utility's load is served that seeks to
3 provide electric generation capacity resources to the utility may
4 submit a written proposal directly to the commission as an
5 alternative to any supply-side generation capacity resource
6 included in the electric utility's integrated resource plan
7 submitted under this section, and has standing to intervene in the
8 contested case proceeding conducted under this section. This
9 subsection does not require an entity that submits an alternative
10 under this subsection to submit an integrated resource plan. This
11 subsection does not limit the ability of any other person to submit
12 to the commission an alternative proposal to any supply-side
13 generation capacity resource included in the electric utility's
14 integrated resource plan submitted under this section and to
15 petition for and be granted leave to intervene in the contested
16 case proceeding conducted under this section under the rules of
17 practice and procedure of the commission. The commission shall only
18 consider an alternative proposal submitted under this subsection as
19 part of its approval process under subsection (8). The electric
20 utility submitting an integrated resource plan under this section
21 is not required to adopt any proposals submitted under this
22 subsection. To the extent practicable, each electric utility is
23 encouraged, but not required, to partner with other electric
24 providers in the same local resource zone as the utility's load is
25 served in the development of any new supply-side generation
26 capacity resources included as part of its integrated resource
27 plan.

28 (7) Not later than 300 days after an electric utility files an
29 integrated resource plan under this section, the commission shall

1 state if the commission has any recommended changes, and if so,
2 describe them in sufficient detail to allow their incorporation in
3 the integrated resource plan. If the commission does not recommend
4 changes, it shall issue a final, appealable order approving or
5 denying the plan filed by the electric utility. If the commission
6 recommends changes, the commission shall set a schedule allowing
7 parties at least 15 days after that recommendation to file comments
8 regarding those recommendations, and allowing the electric utility
9 at least 30 days to consider the recommended changes and submit a
10 revised integrated resource plan that incorporates 1 or more of the
11 recommended changes. If the electric utility submits a revised
12 integrated resource plan under this section, the commission shall
13 issue a final, appealable order approving the plan as revised by
14 the electric utility or denying the plan. The commission shall
15 issue a final, appealable order no later than 360 days after an
16 electric utility files an integrated resource plan under this
17 section. Up to 150 days after an electric utility makes its initial
18 filing, the electric utility may file to update its cost estimates
19 if those cost estimates have materially changed. A utility shall
20 not modify any other aspect of the initial filing unless the
21 utility withdraws and refiles the application. A utility's filing
22 updating its cost estimates does not extend the period for the
23 commission to issue an order approving or denying the integrated
24 resource plan. The commission shall review the integrated resource
25 plan in a contested case proceeding conducted ~~pursuant to~~ **in**
26 **accordance with** chapter 4 of the administrative procedures act of
27 1969, 1969 PA 306, MCL 24.271 to ~~24.287.~~ **24.288**. The commission
28 shall allow intervention by interested persons including electric
29 customers of the utility, respondents to the utility's request for

1 proposals under this section, or other parties approved by the
2 commission. The commission shall request an advisory opinion from
3 the department of ~~environmental quality~~ **environment, Great Lakes,**
4 **and energy** regarding whether any potential decrease in emissions of
5 sulfur dioxide, oxides of nitrogen, mercury, and particulate matter
6 would reasonably be expected to result if the integrated resource
7 plan proposed by the electric utility under subsection (3) was
8 approved and whether the integrated resource plan can reasonably be
9 expected to achieve compliance with the regulations, laws, or rules
10 identified in subsection (1). The commission ~~may~~ **shall** take
11 official notice of the opinion issued by the department of
12 ~~environmental quality~~ **environment, Great Lakes, and energy** under
13 this subsection pursuant to R 792.10428 of the Michigan
14 Administrative Code. Information submitted by the department of
15 ~~environmental quality~~ **environment, Great Lakes, and energy** under
16 this subsection is advisory and is not binding on future
17 determinations by the department of ~~environmental quality~~
18 **environment, Great Lakes, and energy** or the commission in any
19 proceeding or permitting process. This section does not prevent an
20 electric utility from applying for, or receiving, any necessary
21 permits from the department of ~~environmental quality~~ **environment,**
22 **Great Lakes, and energy**. The commission may invite other state
23 agencies to provide testimony regarding other relevant regulatory
24 requirements related to the integrated resource plan. The
25 commission shall permit reasonable discovery after an integrated
26 resource plan is filed and during the hearing in order to assist
27 parties and interested persons in obtaining evidence concerning the
28 integrated resource plan, including, but not limited to, the
29 reasonableness and prudence of the plan and alternatives to the

1 plan raised by intervening parties.

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

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

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

14 (ii) Compliance with applicable state and federal environmental
15 regulations.

16 (iii) Competitive pricing.

17 (iv) Reliability.

18 (v) Commodity price risks.

19 (vi) Diversity of generation supply.

20 (vii) Whether the proposed levels of peak load reduction and
21 energy waste reduction are reasonable and ~~cost-effective.~~ **cost-**
22 **effective.** Exceeding the renewable energy resources and energy
23 waste reduction goal in section 1 of the clean and renewable energy
24 and energy waste reduction act, 2008 PA 295, MCL 460.1001, by a
25 utility ~~shall~~ **is** not, in and of itself, ~~be~~ grounds for determining
26 that the proposed levels of peak load reduction, renewable energy,
27 and energy waste reduction are not reasonable and ~~cost~~
28 ~~effective.~~ **cost-effective.**

29 (b) To the extent practicable, the construction or investment

1 in a new or existing capacity resource in this state is completed
2 using a workforce composed of residents of this state as determined
3 by the commission. This subdivision does not apply to a capacity
4 resource that is located in a county that lies on the border with
5 another state.

6 (c) The plan is consistent with state public policy goals for
7 the utility sector, including the goals of meeting 60% of the
8 state's electricity needs using renewable energy by 2040 and
9 meeting 100% of the state's electricity needs using carbon-free
10 energy by 2040.

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

17 (e) The plan promotes the public interest. In assessing
18 whether the petition or application promotes the public interest,
19 the commission shall consider the goals in section 6(3) and any
20 significant issues raised in a public input hearing under section
21 6aa.

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

23 (9) If the commission denies a utility's integrated resource
24 plan, the utility, within 60 days after the date of the final order
25 denying the integrated resource plan, may submit revisions to the
26 integrated resource plan to the commission for approval. The
27 commission shall commence a new contested case hearing under
28 chapter 4 of the administrative procedures act of 1969, 1969 PA
29 306, MCL 24.271 to ~~24.287.~~ **24.288.** Not later than 90 days after the

1 date that the utility submits the revised integrated resource plan
2 to the commission under this subsection, the commission shall issue
3 an order approving or denying, with recommendations, the revised
4 integrated resource plan if the revisions are not substantial or
5 inconsistent with the original integrated resource plan filed under
6 this section. If the revisions are substantial or inconsistent with
7 the original integrated resource plan, the commission has up to 150
8 days to issue an order approving or denying, with recommendations,
9 the revised integrated resource plan.

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

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

28 (12) Except as otherwise provided in subsection (13), for a
29 new electric generation facility approved in an integrated resource

1 plan that is to be owned by the electric utility and that is
2 commenced within 3 years after the commission's order approving the
3 plan, the commission shall finalize the approved costs for the
4 **electric generation** facility only after the utility has done all of
5 the following and filed the results, analysis, and recommendations
6 with the commission:

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

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

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

25 (13) If the capacity resource under subsection (12) is for the
26 construction of an electric generation facility of 225 megawatts or
27 more or for the construction of an additional generating unit or
28 units totaling 225 megawatts or more at an existing electric
29 generation facility, the utility shall submit an application to the

1 commission seeking a certificate of necessity under section 6s.

2 (14) An electric utility shall annually, or more frequently if
3 required by the commission, file reports to the commission
4 regarding the status of any projects included in the initial 3-year
5 period of an integrated resource plan approved under subsection
6 (7).

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

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

24 (17) The commission shall include in an electric utility's
25 retail rates all reasonable and prudent costs specified under
26 subsections (11) and (12) that have been incurred to implement an
27 integrated resource plan approved by the commission. The commission
28 shall not disallow recovery of costs an electric utility incurs in
29 implementing an approved integrated resource plan, if the costs do

1 not exceed the costs approved by the commission under subsections
2 (11) and (12). If the actual costs incurred by the electric utility
3 exceed the costs approved by the commission, the electric utility
4 has the burden of proving by a preponderance of the evidence that
5 the costs are reasonable and prudent. The portion of the cost of a
6 plant, facility, power purchase agreement, or other investment in a
7 resource that meets a demonstrated need for capacity that exceeds
8 the cost approved by the commission is presumed to have been
9 incurred due to a lack of prudence. The commission may include any
10 or all of the portion of the cost in excess of the cost approved by
11 the commission if the commission finds by a preponderance of the
12 evidence that the costs are reasonable and prudent. The commission
13 shall disallow costs the commission finds have been incurred as the
14 result of fraud, concealment, gross mismanagement, or lack of
15 quality controls amounting to gross mismanagement. The commission
16 shall also require refunds with interest to ratepayers of any of
17 these costs already recovered through the electric utility's rates
18 and charges. If the assumptions underlying an approved integrated
19 resource plan materially change, or if the commission believes it
20 is unlikely that a project or program will become commercially
21 operational, an electric utility may request, or the commission on
22 its own motion may initiate, a proceeding to review whether it is
23 reasonable and prudent to complete an unfinished project or program
24 included in an approved integrated resource plan. If the commission
25 finds that completion of the project or program is no longer
26 reasonable and prudent, the commission may modify or cancel
27 approval of the project or program and unincurred costs in the
28 electric utility's integrated resource plan. Except for costs the
29 commission finds an electric utility has incurred as the result of

1 fraud, concealment, gross mismanagement, or lack of quality
2 controls amounting to gross mismanagement, if commission approval
3 is modified or canceled, the commission shall not disallow
4 reasonable and prudent costs already incurred or committed to by
5 contract by an electric utility. Once the commission finds that
6 completion of the project or program is no longer reasonable and
7 prudent, the commission may limit future cost recovery to those
8 costs that could not be reasonably avoided.

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

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

25 (20) An electric utility shall file an application for review
26 of its integrated resource plan not later than 5 years after the
27 effective date of the most recent commission order approving a
28 plan, a plan amendment, or a plan review. The commission shall
29 consider a plan review under the same process and standards

1 established in this section for review and approval of an
2 integrated resource plan. A commission order approving a plan
3 review has the same effect as an order approving an integrated
4 resource plan.

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

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

19 **Sec. 6aa. (1) For an electric utility with more than 1,000,000**
20 **customers in this state, the department of environment, Great**
21 **Lakes, and energy shall hold at least 2 public input hearings**
22 **before the commission does any of the following:**

23 (a) Issues an order in a general rate case.

24 (b) Approves an integrated resource plan proceeding under
25 section 6t.

26 (c) Approves a renewable energy plan or an amendment to a
27 renewable energy plan under section 22 of the clean and renewable
28 energy and energy waste reduction act, 2008 PA 295, MCL 460.1022.

29 (d) Approves an energy waste reduction plan or an amendment to

1 an energy waste reduction plan under section 73 of the clean and
2 renewable energy and energy waste reduction act, 2008 PA 295, MCL
3 460.1073.

4 (e) Issues a final order in any other proceeding of
5 substantial public interest, as determined by the commission.

6 (2) The department of environment, Great Lakes, and energy
7 shall set the time, place, and manner of public input hearings
8 under subsection (1) to encourage meaningful participation by low-
9 income residential customers, residential customers who experience
10 high energy burdens, and individuals, communities, and community-
11 based organizations likely to be most directly impacted by the
12 outcome of the proceeding.

13 (3) At a public input hearing held under subsection (1),
14 members of the public may do either of the following:

15 (a) Testify formally in the case, under oath or affirmation,
16 and be subject to cross-examination by any party. Formal testimony
17 made under oath is considered as evidence subject to the customary
18 rules of evidence.

19 (b) Make unsworn or unaffirmed statements and not be subject
20 to cross-examination.

21 (4) Not later than 120 days after the effective date of the
22 amendatory act that added this section, the commission shall open a
23 proceeding to consider improvements to its decision-making
24 processes and procedures with respect to all of the following:

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

27 (b) Ensuring equitable participation in the commission's
28 decision-making processes, especially by low-income residential
29 customers, residential customers that experience high energy

1 **burdens, and individuals, communities, and community-based**
2 **organizations most directly impacted by commission decisions.**

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

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

15 **(2) The commission shall ensure that the cost of providing**
16 **service to each customer class is based on the allocation of**
17 **production-related costs ~~based on using the 75-0-25 method of cost~~**
18 **~~allocation and in a manner that reflects cost causation.~~ In making**
19 **that determination, the commission may consider the impact on cost**
20 **causation of resource adequacy requirements adopted by the regional**
21 **transmission organization in which the electric utility operates.**
22 **The commission may also consider the energy value, generating**
23 **profile, and other characteristics of different types or categories**
24 **of generating resources that impact cost causation. The commission**
25 **may approve different allocation methods for an electric utility's**
26 **different types or categories of generating resources if the**
27 **commission determines that the action allocates production costs in**
28 **a manner that better reflects cost causation than allocating the**
29 **production costs of all types and categories of the electric**

1 utility's generating resources using the same method. The
2 commission, on its own motion, may direct an electric utility to
3 file an application for redetermination of a production cost
4 allocation method or methods if the commission finds that
5 circumstances warrant that action.

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

12 (4) ~~(2)~~—Notwithstanding any other provision of this act, the
13 commission may establish eligible low-income customer or eligible
14 senior citizen customer rates. Upon filing of a rate increase
15 request, a utility shall include proposed eligible low-income
16 customer and eligible senior citizen customer rates and a method to
17 allocate the revenue shortfall attributed to the implementation of
18 those rates upon all customer classes. As used in this subsection,
19 "eligible low-income customer" and "eligible senior citizen
20 customer" mean those terms as defined in section 10t.

21 (5) ~~(3)~~—Notwithstanding any other provision of this section,
22 the commission shall establish rate schedules that ensure that
23 public and private schools, universities, and community colleges
24 are charged retail electric rates that reflect the actual cost of
25 providing service to those customers. Electric utilities regulated
26 under this section shall file with the commission tariffs to ensure
27 that public and private schools, universities, and community
28 colleges are charged electric rates as provided in this subsection.

29 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 102nd Legislature are
2 enacted into law:

3 (a) Senate Bill No.____ or House Bill No.____ (request no.
4 02469'23).

5 (b) Senate Bill No.____ or House Bill No.____ (request no.
6 02854'23).