

HOUSE BILL No. 5890

June 20, 1990, Introduced by Rep. Middaugh and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 60 of Act No. 3 of the Public Acts of 1939, entitled as amended

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; 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 therein on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

as added by Act No. 2 of the Public Acts of 1989, being section 460.60 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 60 of Act No. 3 of the Public Acts of
2 1939, as added by Act No. 2 of the Public Acts of 1989, being

1 section 460.60 of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 60. (1) As used in this section:

4 (a) "Resource recovery facility" means a facility that meets
5 all of the following requirements:

6 (i) Has machinery, equipment, and structures installed for
7 the primary purpose of recovering energy through the incineration
8 of qualified solid waste, ~~or~~ landfill gas, OR SCRAP TIRES.

9 (ii) Utilizes at least 80% of its total annual fuel input in
10 the form of qualified solid waste, ~~or~~ at least 90% of its total
11 annual fuel input in the form of landfill gas, OR 80% OF ITS
12 TOTAL ANNUAL FUEL INPUT IN THE FORM OF SCRAP TIRES.

13 (iii) Is a qualifying facility as defined by the federal
14 energy regulatory commission pursuant to the public utility regu-
15 latory policies act of 1978, Public Law 95-617, 92 Stat. 3117.

16 (b) "Qualified solid waste" means solid waste that may be
17 lawfully disposed of in a type II landfill as defined by
18 R 299.4105 of the Michigan administrative code, and which is gen-
19 erated within this state.

20 (c) "SCRAP TIRE", "SCRAP TIRE HAULER", AND "SCRAP TIRE
21 PROCESSOR" MEAN THOSE TERMS AS THEY ARE DEFINED IN THE SCRAP TIRE
22 REGULATORY ACT.

23 (2) ~~Beginning June 30, 1989, public~~ PUBLIC utilities with
24 more than 500,000 customers in this state shall enter into power
25 purchase agreements for the purchase of capacity and energy from
26 resource recovery facilities that will process qualified solid
27 waste, at least 50.1% of which is generated within the service

1 areas of the public utility; OR SCRAP TIRES, under rates,
2 charges, terms, and conditions of service that, for these facili-
3 ties, may differ from those negotiated, authorized, or prescribed
4 for purchases from qualifying facilities that are not resource
5 recovery facilities. A RESOURCE RECOVERY FACILITY THAT DOES NOT
6 INCINERATE QUALIFIED SOLID WASTE OR LANDFILL GAS SHALL ACCEPT ALL
7 SCRAP TIRES THAT FIRST BECAME SCRAP TIRES IN THE STATE AND THAT
8 ARE DELIVERED TO THE FACILITY BY A SCRAP TIRE PROCESSOR OR A
9 SCRAP TIRE HAULER. THE FIRST 6,000,000 OF THESE SCRAP TIRES
10 DELIVERED TO THE RESOURCE RECOVERY FACILITY EACH YEAR SHALL BE
11 CHARGED A RATE NOT GREATER THAN AN AMOUNT EQUAL TO \$34.50 PER
12 TON, INCREASED EACH CALENDAR QUARTER BEGINNING JULY 1, 1990, BY
13 AN AMOUNT EQUAL TO THE INCREASE IN THE ALL ITEMS VERSION OF THE
14 CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS
15 DURING THE PRIOR CALENDAR QUARTER. Including power purchase
16 agreements executed prior to June 30, 1989, this section shall
17 not apply after 120 megawatts of electric resource recovery
18 facility capacity in a utility's service territory have been con-
19 tracted and entered in commercial operation. Excluding rate pro-
20 visions, if a provision or provisions of a purchase agreement
21 remain in dispute, each party shall submit to the commission all
22 of the purchase agreement provisions of their last best offer and
23 a supporting brief. On each disputed provision, the commission
24 shall within 60 days either select or reject with recommendation
25 the offers submitted by either party.

26 (3) A power purchase agreement entered into by a public
27 utility for the purchase of capacity and energy from a resource

1 recovery facility shall be filed with the commission and a
2 contested case proceeding shall commence immediately pursuant to
3 chapter 4 of the administrative procedures act of 1969, Act
4 No. 306 of the Public Acts of 1969, being sections 24.271 to
5 24.287 of the Michigan Compiled Laws. Notwithstanding
6 section 6j, a power purchase agreement shall be considered
7 approved if the commission does not approve or disapprove the
8 agreement within 6 months of the date of the filing of the agree-
9 ment, or ~~the effective date of the amendatory act that added~~
10 ~~this section~~ APRIL 3, 1989, whichever is later. Approval pursu-
11 ant to this subsection shall constitute prior approval under
12 section 6j(13)(b).

13 (4) The energy rate component of all power sales contracts
14 for resource recovery facilities shall be equal to the avoided
15 energy cost of the purchasing utility.

16 (5) When averaged over the term of the contract, the capac-
17 ity rate component of all power sales contracts for resource
18 recovery facilities may be equal to but not less than the full
19 avoided cost of the utility as determined by the commission. In
20 determining the capacity rate, the commission may assume that the
21 utility needs capacity.

22 (6) Capacity purchased by a utility prior to January 1, 2000
23 under a power sales contract with a resource recovery facility
24 shall not be considered directly or indirectly in determining the
25 utility's reserve margin, reserve capacity, or other resource
26 capability measurement.