

**SUBSTITUTE FOR
SENATE BILL NO. 438**

A bill to amend 2008 PA 295, entitled "Clean, renewable, and efficient energy act," by amending the title, the headings of subparts B and C of part 2 and the heading of part 5, and sections 1, 3, 5, 7, 9, 11, 13, 41, 47, 49, 71, 73, 75, 77, 81, 83, 85, 87, 89, 91, 93, 95, 97, 113, 173, 175, 177, and 179 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1041, 460.1047, 460.1049, 460.1071, 460.1073, 460.1075, 460.1077, 460.1081, 460.1083, 460.1085, 460.1087, 460.1089, 460.1091, 460.1093, 460.1095, 460.1097, 460.1113, 460.1173, 460.1175, 460.1177, and 460.1179), section 93 as amended by 2010 PA 269, and by adding subpart B to part 2, sections 72, 74, 76, 77a, 78, 89a, 91a, 98, 99, 183, and 185, and part 7; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to ~~require~~**AUTHORIZE** certain providers of electric
 3 service to ~~establish~~**RECOVER COSTS FOR** renewable energy programs;
 4 to require certain providers of electric or natural gas service to
 5 establish energy ~~optimization~~**WASTE REDUCTION** programs; to
 6 authorize the use of certain energy systems to meet the
 7 requirements of those programs; to provide for the approval of
 8 energy ~~optimization~~**WASTE REDUCTION** service companies; ~~to provide~~
 9 ~~for certain charges on electric and natural gas bills; to promote~~
 10 ~~energy conservation~~**TO REDUCE ENERGY WASTE** by state agencies and
 11 the public; to create a wind energy resource zone board and provide
 12 for its power and duties; to authorize the creation and
 13 implementation of wind energy resource zones; to provide for
 14 expedited transmission line siting certificates; to provide for a
 15 **CUSTOMER GENERATION AND** net metering ~~program~~**PROGRAMS** and the
 16 responsibilities of certain providers of electric service and
 17 customers with respect to **CUSTOMER GENERATION AND** net metering; to
 18 provide for fees; to prescribe the powers and duties of certain
 19 state agencies and officials; to require the promulgation of rules
 20 and the issuance of orders; **TO AUTHORIZE THE ESTABLISHMENT OF**
 21 **RESIDENTIAL ENERGY IMPROVEMENT PROGRAMS BY PROVIDERS OF ELECTRIC OR**
 22 **NATURAL GAS SERVICE;** and to provide for civil sanctions, remedies,
 23 and penalties.

24 Sec. 1. (1) This act shall be known and may be cited as the
 25 "clean ~~, AND~~ renewable ~~, and efficient~~ energy **AND ENERGY WASTE**
 26 **REDUCTION** act".

1 (2) The purpose of this act is to promote the development of
 2 ~~clean energy, renewable energy, and energy optimization through the~~
 3 ~~implementation of a clean, renewable, and energy efficient standard~~
 4 **AND USE OF CLEAN AND RENEWABLE ENERGY RESOURCES AND THE REDUCTION**
 5 **OF ENERGY WASTE THROUGH PROGRAMS** that will cost-effectively do all
 6 of the following:

7 (a) Diversify the resources used to reliably meet the energy
 8 needs of consumers in this state.

9 (b) Provide greater energy security through the use of
 10 indigenous energy resources available within the state.

11 (c) Encourage private investment in renewable energy and
 12 energy efficiency. **WASTE REDUCTION.**

13 (d) ~~Provide~~ **COORDINATE WITH FEDERAL REGULATIONS TO PROVIDE**
 14 improved air quality and other benefits to energy consumers and
 15 citizens of this state.

16 (e) **REMOVE UNNECESSARY BURDENS ON THE APPROPRIATE USE OF SOLID**
 17 **WASTE AS A CLEAN ENERGY SOURCE.**

18 (3) **AS A GOAL, NOT LESS THAN 35% OF THIS STATE'S ELECTRIC**
 19 **NEEDS SHOULD BE MET THROUGH A COMBINATION OF ENERGY WASTE REDUCTION**
 20 **AND RENEWABLE ENERGY BY 2025, IF THE INVESTMENTS IN ENERGY WASTE**
 21 **REDUCTION AND RENEWABLE ENERGY ARE THE MOST REASONABLE MEANS OF**
 22 **MEETING AN ELECTRIC UTILITY'S ENERGY AND CAPACITY NEEDS RELATIVE TO**
 23 **OTHER RESOURCE OPTIONS. ALL OF THE FOLLOWING COUNT TOWARD**
 24 **ACHIEVEMENT OF THE GOAL:**

25 (A) **ALL RENEWABLE ENERGY THAT COUNTED TOWARD THE RENEWABLE**
 26 **ENERGY STANDARD UNDER FORMER SECTION 27 ON THE EFFECTIVE DATE OF**
 27 **THE AMENDATORY ACT THAT ADDED SECTION 6T OF 1939 PA 3, MCL 460.6T,**

1 AS WELL AS ANY INVESTMENTS MADE IN RENEWABLE ENERGY BY THE UTILITY
2 OR A UTILITY CUSTOMER AFTER THAT EFFECTIVE DATE.

3 (B) ALL ENERGY WASTE REDUCTION MEASURES IMPLEMENTED UNDER AN
4 APPROVED ENERGY OPTIMIZATION PLAN OR ENERGY WASTE REDUCTION PLAN
5 UNDER SECTION 73 OR 74.

6 (C) ALL ENERGY WASTE REDUCTION AND RENEWABLE ENERGY
7 INVESTMENTS INCLUDED IN AN ELECTRIC UTILITY'S APPROVED INTEGRATED
8 RESOURCE PLAN PURSUANT TO SECTION 6T OF 1939 PA 3, MCL 460.6T.

9 Sec. 3. As used in this act:

10 ~~—— (a) "Advanced cleaner energy" means electricity generated~~
11 ~~using an advanced cleaner energy system.~~

12 ~~—— (b) "Advanced cleaner energy credit" means a credit certified~~
13 ~~under section 43 that represents generated advanced cleaner energy.~~

14 ~~—— (c) "Advanced cleaner energy system" means any of the~~
15 ~~following:~~

16 ~~—— (i) A gasification facility.~~

17 ~~—— (ii) An industrial cogeneration facility.~~

18 ~~—— (iii) A coal fired electric generating facility if 85% or more~~
19 ~~of the carbon dioxide emissions are captured and permanently~~
20 ~~geologically sequestered.~~

21 ~~—— (iv) An electric generating facility or system that uses~~
22 ~~technologies not in commercial operation on the effective date of~~
23 ~~this act.~~

24 ~~—— (d) "Affiliated transmission company" means that term as~~
25 ~~defined in the electric transmission line certification act, 1995~~
26 ~~PA 30, MCL 460.562.~~

27 (A) ~~(e)~~—"Applicable regional transmission organization" means

1 a nonprofit, member-based organization governed by an independent
2 board of directors that serves as the ~~federal energy regulatory~~
3 ~~commission approved regional transmission organization~~ **APPROVED BY**
4 **THE FEDERAL ENERGY REGULATORY COMMISSION** with oversight
5 responsibility for the region that includes the provider's service
6 territory.

7 (B) ~~(f)~~ "Biomass" means any organic matter that is not derived
8 from fossil fuels, that can be converted to usable fuel for the
9 production of energy, and that replenishes over a human, not a
10 geological, time frame, including, but not limited to, all of the
11 following:

12 (i) Agricultural crops and crop wastes.

13 (ii) Short-rotation energy crops.

14 (iii) Herbaceous plants.

15 (iv) Trees and wood. ~~, but only if derived from sustainably~~
16 ~~managed forests or procurement systems, as defined in section 261e~~
17 ~~of the management and budget act, 1984 PA 431, MCL 18.1261e.~~

18 (v) Paper and pulp products.

19 (vi) Precommercial wood thinning waste, brush, or yard waste.

20 (vii) Wood wastes and residues from the processing of wood
21 products or paper.

22 (viii) Animal wastes.

23 (ix) Wastewater sludge or sewage.

24 (x) Aquatic plants.

25 (xi) Food production and processing waste.

26 (xii) Organic by-products from the production of biofuels.

27 (C) ~~(g)~~ "Board" means the wind energy resource zone board

1 created under section 143.

2 (D) ~~(h)~~—"Carbon dioxide emissions benefits" means that the
3 carbon dioxide emissions per megawatt hour of electricity generated
4 by the advanced cleaner energy system are at least 85% less or, for
5 an integrated gasification combined cycle facility **OR AN INTEGRATED**
6 **PYROLYSIS COMBINED CYCLE FACILITY**, 70% less than the average carbon
7 dioxide emissions per megawatt hour of electricity generated from
8 all coal-fired electric generating facilities operating in this
9 state on January 1, 2008.

10 (E) **"COGENERATION FACILITY" MEANS A FACILITY THAT PRODUCES**
11 **BOTH ELECTRICITY AND USEFUL THERMAL ENERGY, SUCH AS HEAT OR STEAM,**
12 **IN A WAY THAT IS MORE EFFICIENT THAN THE SEPARATE PRODUCTION OF**
13 **THOSE FORMS OF ENERGY.**

14 (F) ~~(i)~~—"Commission" means the Michigan public service
15 commission.

16 (G) ~~(j)~~—"Customer meter" means an electric meter of a
17 provider's retail customer. Customer meter does not include a
18 municipal water pumping meter or additional meters at a single site
19 that were installed specifically to support interruptible air
20 conditioning, interruptible water heating, net metering, or time-
21 of-day tariffs.

22 (H) **"DISTRIBUTED GENERATION PROGRAM" MEANS THE PROGRAM**
23 **ESTABLISHED BY THE COMMISSION UNDER SECTION 173.**

24 Sec. 5. As used in this act:

25 (a) "Electric provider" ~~, subject to sections 21(1), 23(1),~~
26 ~~and 25(1),~~ means any of the following:

27 (i) Any person or entity that is regulated by the commission

1 for the purpose of selling electricity to retail customers in this
2 state.

3 (ii) A municipally-owned electric utility in this state.

4 (iii) A cooperative electric utility in this state.

5 (iv) Except as used in subpart ~~B-C~~ of part 2, an alternative
6 electric supplier licensed under section 10a of 1939 PA 3, MCL
7 460.10a.

8 (b) "Eligible electric generator" means ~~that~~ a methane
9 digester or renewable energy system with a generation capacity
10 limited to the customer's electric need and that does not exceed
11 the following:

12 (i) For a renewable energy system, 150 kilowatts of aggregate
13 generation at a single site.

14 (ii) For a methane digester, 550 kilowatts of aggregate
15 generation at a single site.

16 (c) "Energy conservation" means the reduction of customer
17 energy use through the installation of measures or changes in
18 energy usage behavior. ~~Energy conservation does not include the use~~
19 ~~of advanced cleaner energy systems.~~

20 (d) "Energy efficiency" means a decrease in customer
21 consumption of electricity or natural gas achieved through measures
22 or programs, **INCLUDING PREPAY PROGRAMS**, that target customer
23 behavior, equipment, devices, or materials without reducing the
24 quality of energy services.

25 **(E) "ENERGY STAR" MEANS THE VOLUNTARY PARTNERSHIP AMONG THE**
26 **UNITED STATES DEPARTMENT OF ENERGY, THE UNITED STATES ENVIRONMENTAL**
27 **PROTECTION AGENCY, PRODUCT MANUFACTURERS, LOCAL UTILITIES, AND**

1 RETAILERS TO HELP PROMOTE ENERGY EFFICIENT PRODUCTS BY LABELING
 2 WITH THE ENERGY STAR LOGO, EDUCATE CONSUMERS ABOUT THE BENEFITS OF
 3 ENERGY EFFICIENCY, AND HELP PROMOTE ENERGY EFFICIENCY IN BUILDINGS
 4 BY BENCHMARKING AND RATING ENERGY PERFORMANCE.

5 (F) ~~(e)~~ "Energy optimization", ~~WASTE REDUCTION~~, subject to
 6 subdivision ~~(f)~~, ~~(G)~~, means all of the following:

7 (i) Energy efficiency.

8 (ii) Load management, to the extent that the load management
 9 reduces ~~overall energy usage~~. **PROVIDER COSTS.**

10 (iii) Energy conservation, but only to the extent that the
 11 decreases in the consumption of electricity produced by energy
 12 conservation are objectively measurable and attributable to an
 13 energy ~~optimization~~ **WASTE REDUCTION** plan.

14 (G) ~~(f)~~ Energy ~~optimization~~ **WASTE REDUCTION** does not include
 15 electric provider infrastructure projects that are approved for
 16 cost recovery by the commission other than as provided in this act.

17 (H) ~~(g)~~ "Energy ~~optimization~~ **WASTE REDUCTION** credit" means a
 18 credit certified pursuant to section 87 that represents achieved
 19 energy ~~optimization~~. **WASTE REDUCTION.**

20 (I) ~~(h)~~ "Energy ~~optimization~~ **WASTE REDUCTION** plan" or ~~"EO~~
 21 ~~plan"~~ means a plan under section 71 OR 72, **AS APPLICABLE.**

22 (J) ~~(i)~~ "Energy ~~optimization~~ **WASTE REDUCTION** standard" means
 23 the minimum energy savings required to be achieved under section 77
 24 **OR 77A, AS APPLICABLE.**

25 ~~(j) "Energy star" means the voluntary partnership among the~~
 26 ~~United States department of energy, the United States environmental~~
 27 ~~protection agency, product manufacturers, local utilities, and~~

1 ~~retailers to help promote energy efficient products by labeling~~
2 ~~with the energy star logo, educate consumers about the benefits of~~
3 ~~energy efficiency, and help promote energy efficiency in buildings~~
4 ~~by benchmarking and rating energy performance.~~

5 (k) "Federal approval" means approval by the applicable
6 regional transmission organization or other federal energy
7 regulatory commission approved transmission planning process of a
8 transmission project that includes the transmission line. Federal
9 approval may be evidenced in any of the following manners:

10 (i) The proposed transmission line is part of a transmission
11 project included in the applicable regional transmission
12 organization's board-approved transmission expansion plan.

13 (ii) The applicable regional transmission organization has
14 informed the electric utility, affiliated transmission company, or
15 independent transmission company that a transmission project
16 submitted for an out-of-cycle project review has been approved by
17 the applicable regional transmission organization, and the approved
18 transmission project includes the proposed transmission line.

19 (iii) If, after ~~the effective date of this act,~~ **OCTOBER 6,**
20 **2008,** the applicable regional transmission organization utilizes
21 another approval process for transmission projects proposed by an
22 electric utility, affiliated transmission company, or independent
23 transmission company, the proposed transmission line is included in
24 a transmission project approved by the applicable regional
25 transmission organization through the approval process developed
26 after ~~the effective date of this act.~~ **OCTOBER 6, 2008.**

27 (iv) Any other federal energy regulatory commission approved

1 transmission planning process for a transmission project.

2 Sec. 7. As used in this act:

3 (a) "Gasification facility" means a facility located in this
4 state that, ~~uses~~ **USING** a thermochemical process that does not
5 involve direct combustion, ~~to produce~~ **PRODUCES** synthesis gas,
6 composed of carbon monoxide and hydrogen, from carbon-based
7 feedstocks (such as coal, petroleum coke, wood, biomass, hazardous
8 waste, medical waste, industrial waste, and solid waste, including,
9 but not limited to, municipal solid waste, electronic waste, and
10 waste described in section 11514 of the natural resources and
11 environmental protection act, 1994 PA 451, MCL 324.11514) and that
12 uses the synthesis gas or a mixture of the synthesis gas and
13 methane to generate electricity for commercial use. Gasification
14 facility includes the transmission lines, gas transportation lines
15 and facilities, and associated property and equipment specifically
16 attributable to such a facility. Gasification facility includes,
17 but is not limited to, an integrated gasification combined cycle
18 facility and a plasma arc gasification facility.

19 (b) "Incremental costs of compliance" means the net revenue
20 required by an electric provider to comply, **BEFORE THE EFFECTIVE**
21 **DATE OF THE 2016 ACT THAT AMENDED THIS SECTION**, with the **FORMER**
22 renewable energy standard, calculated as provided under section 47.

23 (c) "Independent transmission company" means that term as
24 defined in section 2 of the electric transmission line
25 certification act, 1995 PA 30, MCL 460.562.

26 ~~—— (d) "Industrial cogeneration facility" means a facility that~~
27 ~~generates electricity using industrial thermal energy or industrial~~

1 ~~waste energy.~~

2 ~~—— (e) "Industrial thermal energy" means thermal energy that is a~~
3 ~~by product of an industrial or manufacturing process and that would~~
4 ~~otherwise be wasted. For the purposes of this subdivision,~~
5 ~~industrial or manufacturing process does not include the generation~~
6 ~~of electricity.~~

7 ~~—— (f) "Industrial waste energy" means exhaust gas or flue gas~~
8 ~~that is a by product of an industrial or manufacturing process and~~
9 ~~that would otherwise be wasted. For the purposes of this~~
10 ~~subdivision, industrial or manufacturing process does not include~~
11 ~~the generation of electricity.~~

12 (D) ~~(g)~~—"Integrated gasification combined cycle facility"
13 means a gasification facility that uses a thermochemical process,
14 including high temperatures and controlled amounts of air and
15 oxygen, to break substances down into their molecular structures
16 and that uses exhaust heat to generate electricity.

17 (E) **"INTEGRATED PYROLYSIS COMBINED CYCLE FACILITY" MEANS A**
18 **PYROLYSIS FACILITY THAT USES EXHAUST HEAT TO GENERATE ELECTRICITY.**

19 (F) ~~(h)~~—"LEED" means the leadership in energy and
20 environmental design green building rating system developed by the
21 United States ~~green building council.~~**GREEN BUILDING COUNCIL.**

22 (G) ~~(i)~~—"Load management" means measures or programs that
23 target equipment or ~~devices~~**BEHAVIOR** to result in decreased peak
24 electricity demand such as by shifting demand from a peak to an
25 off-peak period.

26 (H) ~~(j)~~—"Modified net metering" means a utility billing method
27 that applies the power supply component of the full retail rate to

1 the net of the bidirectional flow of kilowatt hours across the
2 customer interconnection with the utility distribution system,
3 during a billing period or time-of-use pricing period. A negative
4 net metered quantity during the billing period or during each time-
5 of-use pricing period within the billing period reflects net excess
6 generation for which the customer is entitled to receive credit
7 under section 177(4). ~~Standby charges for UNDER~~ modified net
8 metering, **STANDBY CHARGES FOR DISTRIBUTED GENERATION** customers on
9 an energy rate schedule shall be equal to the retail distribution
10 charge applied to the imputed customer usage during the billing
11 period. The imputed customer usage is calculated as the sum of the
12 metered on-site generation and the net of the bidirectional flow of
13 power across the customer interconnection during the billing
14 period. The commission shall establish standby charges ~~for UNDER~~
15 modified net metering **FOR DISTRIBUTED GENERATION** customers on
16 demand-based rate schedules that provide an equivalent contribution
17 to utility system costs.

18 Sec. 9. As used in this act:

19 (a) "Natural gas provider" means an investor-owned business
20 engaged in the sale and distribution **AT RETAIL** of natural gas
21 within this state whose rates are regulated by the commission.
22 ~~However, as used in subpart B of part 2, natural gas provider does~~
23 ~~not include an alternative gas supplier licensed under section 9b~~
24 ~~of 1939 PA 3, MCL 460.9b.~~

25 (B) **"PET COKE" MEANS A SOLID CARBONACEOUS RESIDUE PRODUCED**
26 **FROM A COKER AFTER CRACKING AND DISTILLATION FROM PETROLEUM**
27 **REFINING OPERATIONS.**

1 (C) ~~(b)~~ "Plasma arc gasification facility" means a
 2 gasification facility that uses a plasma torch to break substances
 3 down into their molecular structures.

4 (D) ~~(e)~~ "Provider" means an electric provider or a natural gas
 5 provider.

6 (E) ~~(d)~~ "PURPA" means the public utility regulatory policies
 7 act of 1978, Public Law 95-617.

8 ~~(c) "Qualifying small power production facility" means that~~
 9 ~~term as defined in 16 USC 824a-3.~~

10 (F) "PYROLYSIS FACILITY" MEANS A FACILITY THAT EFFECTS
 11 THERMOCHEMICAL DECOMPOSITION AT ELEVATED TEMPERATURES WITHOUT THE
 12 PARTICIPATION OF OXYGEN, FROM CARBON-BASED FEEDSTOCKS INCLUDING,
 13 BUT NOT LIMITED TO, COAL, WOOD, BIOMASS, INDUSTRIAL WASTE, OR SOLID
 14 WASTE, BUT NOT INCLUDING PET COKE, HAZARDOUS WASTE, COAL WASTE, OR
 15 SCRAP TIRES. PYROLYSIS FACILITY INCLUDES THE TRANSMISSION LINES,
 16 GAS TRANSPORTATION LINES AND FACILITIES, AND ASSOCIATED PROPERTY
 17 AND EQUIPMENT SPECIFICALLY ATTRIBUTABLE TO THE FACILITY. PYROLYSIS
 18 FACILITY INCLUDES, BUT IS NOT LIMITED TO, AN INTEGRATED PYROLYSIS
 19 COMBINED CYCLE FACILITY.

20 Sec. 11. As used in this act:

21 (a) "Renewable energy" means electricity generated using a
 22 renewable energy system.

23 (b) "Renewable energy capacity portfolio" means the number of
 24 megawatts calculated under **FORMER** section 27(2) for a particular
 25 year.

26 (c) "Renewable energy contract" means a contract to acquire
 27 renewable energy and the associated renewable energy credits from 1

1 or more renewable energy systems.

2 (d) "Renewable energy credit" means a credit granted pursuant
 3 ~~to~~ **UNDER A CERTIFICATION AND TRACKING PROGRAM ESTABLISHED UNDER**
 4 section 41, ~~that~~ **WHICH** represents generated renewable energy.

5 (e) "Renewable energy credit portfolio" means the sum of the
 6 renewable energy credits achieved by a provider for a particular
 7 year.

8 ~~—— (f) "Renewable energy credit standard" means a minimum
 9 renewable energy portfolio required under section 27.~~

10 ~~—— (g) "Renewable energy generator" means a person that, together
 11 with its affiliates, has constructed or has owned and operated 1 or
 12 more renewable energy systems with combined gross generating
 13 capacity of at least 10 megawatts.~~

14 (F) ~~(h)~~ "Renewable energy plan" or "plan" ~~,~~ means a plan
 15 approved under **FORMER** section 21 or **FORMER SECTION** 23 or found to
 16 comply with this act under **FORMER** section 25, with any amendments
 17 adopted under this act.

18 (G) ~~(i)~~ "Renewable energy resource" means a resource that
 19 naturally replenishes over a human, not a geological, time frame
 20 and that is ultimately derived from solar power, water power, or
 21 wind power. Renewable energy resource does not include petroleum,
 22 nuclear, natural gas, or coal. A renewable energy resource comes
 23 from the sun or from thermal inertia of the earth and minimizes the
 24 output of toxic material in the conversion of the energy and
 25 includes, but is not limited to, all of the following:

26 (i) Biomass.

27 (ii) Solar and solar thermal energy.

1 (iii) Wind energy.

2 (iv) Kinetic energy of moving water, including all of the
3 following:

4 (A) Waves, tides, or currents.

5 (B) Water released through a dam.

6 (v) Geothermal energy.

7 (vi) Municipal solid waste, **INCLUDING THE BIOGENIC AND**
8 **ANTHROPOGENIC FACTIONS.**

9 (vii) Landfill gas produced by municipal solid waste.

10 (viii) **FUEL THAT HAS BEEN MANUFACTURED IN WHOLE OR SIGNIFICANT**
11 **PART FROM WASTE, INCLUDING, BUT NOT LIMITED TO, MUNICIPAL SOLID**
12 **WASTE. FUEL THAT MEETS THE REQUIREMENTS OF THIS SUB-SUBPARAGRAPH**
13 **INCLUDES, BUT IS NOT LIMITED TO, MATERIAL THAT IS LISTED UNDER 40**
14 **CFR 241.3(B) OR 241.4(A) OR FOR WHICH A NON-WASTE DETERMINATION IS**
15 **MADE BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT**
16 **TO 40 CFR 241.3(C). PET COKE, HAZARDOUS WASTE, COAL WASTE, OR SCRAP**
17 **TIRES ARE NOT FUEL THAT MEETS THE REQUIREMENTS OF THIS SUB-**
18 **SUBPARAGRAPH.**

19 (H) ~~(j)~~—"Renewable energy standard" means the minimum
20 renewable energy capacity portfolio, if applicable, and the
21 renewable energy credit portfolio **THAT WAS** required to be achieved
22 under **FORMER** section 27.

23 (I) ~~(k)~~—"Renewable energy system" means a facility,
24 electricity generation system, or set of electricity generation
25 systems that use 1 or more renewable energy resources to generate
26 electricity. Renewable energy system does not include any of the
27 following:

1 (i) A hydroelectric pumped storage facility.

2 (ii) A hydroelectric facility that uses a dam constructed
3 after ~~the effective date of this act~~ **OCTOBER 6, 2008** unless the dam
4 is a repair or replacement of a dam in existence on ~~the effective~~
5 ~~date of this act~~ **OCTOBER 6, 2008** or an upgrade of a dam in
6 existence on ~~the effective date of this act~~ **OCTOBER 6, 2008** that
7 increases its energy efficiency.

8 (iii) An incinerator unless the incinerator is a municipal
9 solid waste incinerator as defined in section 11504 of the natural
10 resources and environmental protection act, 1994 PA 451, MCL
11 324.11504. ~~, that was brought into service before the effective~~
12 ~~date of this act, including any of the following:~~

13 ~~—— (A) Any upgrade of such an incinerator that increases energy~~
14 ~~efficiency.~~

15 ~~—— (B) Any expansion of such an incinerator before the effective~~
16 ~~date of this act.~~

17 ~~—— (C) Any expansion of such an incinerator on or after the~~
18 ~~effective date of this act to an approximate design rated capacity~~
19 ~~of not more than 950 tons per day pursuant to the terms of a final~~
20 ~~request for proposals issued on or before October 1, 1986.~~

21 (J) ~~(I)~~—"Revenue recovery mechanism" means the mechanism for
22 recovery of incremental costs of compliance established under
23 **FORMER** section 21.

24 Sec. 13. As used in this act:

25 (a) "Site" means a contiguous site, regardless of the number
26 of meters at that site. A site that would be contiguous but for the
27 presence of a street, road, or highway ~~shall be~~ **IS** considered to be

1 contiguous for the purposes of this subdivision.

2 (b) "Transmission line" means all structures, equipment, and
3 real property necessary to transfer electricity at system bulk
4 supply voltage of 100 kilovolts or more.

5 (c) "True net metering" means a utility billing method that
6 applies the full retail rate to the net of the bidirectional flow
7 of kilowatt hours across the customer interconnection with the
8 utility distribution system, during a billing period or time-of-use
9 pricing period. A negative net metered quantity during the billing
10 period or during each time-of-use pricing period within the billing
11 period reflects net excess generation for which the customer is
12 entitled to receive credit under section 177(4).

13 (d) "Utility system resource cost test" means a standard that
14 is met for an investment in energy ~~optimization~~ **WASTE REDUCTION** if,
15 on a life cycle basis, the total avoided supply-side costs to the
16 provider, including representative values for ~~electricity or~~
17 natural gas supply, transmission, distribution, and other
18 associated costs **OR, BEFORE JANUARY 1, 2021, ELECTRICITY SUPPLY,**
19 **TRANSMISSION, DISTRIBUTION, AND OTHER ASSOCIATED COSTS,** are greater
20 than the total costs to the provider of administering and
21 delivering the energy ~~optimization~~ **WASTE REDUCTION** program,
22 including net costs for any provider incentives paid by customers
23 and capitalized costs recovered under section 89.

24 (e) "Wind energy conversion system" means a ~~renewable energy~~
25 system that uses 1 or more wind turbines to generate electricity
26 and has a nameplate capacity of 100 kilowatts or more.

27 (f) "Wind energy resource zone" or "wind zone" means an area

1 designated by the commission under section 147.

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

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

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

16 (2) ~~(4)~~ The commission shall establish a renewable energy
17 credit certification and tracking program. The certification and
18 tracking program may be contracted to and performed by a third
19 party through a system of competitive bidding. The program shall
20 include all of the following:

21 (a) A process to certify renewable energy systems, including
22 all existing renewable energy systems operating on ~~the effective~~
23 ~~date of this act, **OCTOBER 6, 2008**~~ as eligible to receive renewable
24 energy credits.

25 (b) A process for verifying that the operator of a renewable
26 energy system is in compliance with state and federal law
27 applicable to the operation of the renewable energy system when

1 certification is granted. If a renewable energy system becomes
2 noncompliant with state or federal law, renewable energy credits
3 shall not be granted for renewable energy generated by that
4 renewable energy system during the period of noncompliance.

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

7 (d) A method for transferring renewable energy credits.

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

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

14 ~~—— (g) A method for ensuring that both a renewable energy credit
15 and an advanced cleaner energy credit are not awarded for the same
16 megawatt hour of energy.~~

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

20 Sec. 47. (1) ~~Subject to the retail rate impact limits under~~
21 ~~section 45, the~~ **FOR AN ELECTRIC PROVIDER WHOSE RATES ARE REGULATED**
22 **BY THE COMMISSION, THE COMMISSION SHALL DETERMINE THE APPROPRIATE**
23 **CHARGES, WHICH SHALL BE INCLUDED IN THE ELECTRIC PROVIDER'S**
24 **TARIFFS, TO PERMIT RECOVERY OF THE INCREMENTAL COST OF COMPLIANCE.**
25 **THE** commission shall consider all actual costs reasonably and
26 prudently incurred in good faith to implement a commission-approved
27 renewable energy plan by an electric provider whose rates are

1 regulated by the commission to be a cost of service to be recovered
 2 by the electric provider. ~~Subject to the retail rate impact limits~~
 3 ~~under section 45, an~~ **AN** electric provider whose rates are regulated
 4 by the commission shall recover through its retail electric rates
 5 all of the electric provider's incremental costs of compliance
 6 during the 20-year period beginning when the electric provider's
 7 plan is approved by the commission and all reasonable and prudent
 8 ongoing costs of compliance during and after that period. The
 9 recovery shall include, but is not limited to, ~~the~~ **BOTH OF THE**
 10 **FOLLOWING:**

11 (A) **THE** electric provider's authorized rate of return on
 12 equity for costs approved under this section, which shall remain
 13 fixed at the rate of return and debt to equity ratio that was in
 14 effect in the electric provider's base rates when the electric
 15 provider's renewable energy plan was approved.

16 (B) **COSTS ASSOCIATED WITH A FACILITY APPROVED FOR COST**
 17 **RECOVERY BEFORE THE EFFECTIVE DATE OF THE 2016 AMENDATORY ACT THAT**
 18 **AMENDED THIS SECTION.**

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

21 (a) Determine the sum of the following costs to the extent
 22 those costs are reasonable and prudent and not already approved for
 23 recovery in electric rates as of ~~the effective date of this~~
 24 ~~act:~~ **OCTOBER 6, 2008:**

25 (i) Capital, operating, and maintenance costs of renewable
 26 energy systems or advanced cleaner energy systems, including
 27 property taxes, insurance, and return on equity associated with an

1 electric provider's renewable energy systems or advanced cleaner
2 energy systems, including the electric provider's renewable energy
3 portfolio established to achieve compliance with the renewable
4 energy standards and any additional renewable energy systems or
5 advanced cleaner energy systems, that are built or acquired by the
6 electric provider to maintain compliance with the renewable energy
7 standards during the 20-year period beginning when the electric
8 provider's plan is approved by the commission.

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

13 (iii) Costs that are not otherwise recoverable in rates
14 approved by the ~~federal energy regulatory commission~~ **FEDERAL ENERGY**
15 **REGULATORY COMMISSION** and that are related to the infrastructure
16 required to bring renewable energy systems or advanced cleaner
17 energy systems used to achieve compliance with the renewable energy
18 standards on to the transmission system, including interconnection
19 and substation costs for renewable energy systems or advanced
20 cleaner energy systems used to meet the renewable energy standard.

21 (iv) Ancillary service costs determined by the commission to
22 be necessarily incurred to ensure the quality and reliability of
23 renewable energy or advanced cleaner energy used to meet the
24 renewable energy standards, regardless of the ownership of a
25 renewable energy system or advanced cleaner energy
26 ~~technology~~. **SYSTEM.**

27 (v) Except to the extent the costs are allocated under a

1 different subparagraph, all of the following:

2 (A) The costs of renewable energy credits purchased under this
3 act.

4 (B) The costs of contracts described in **FORMER** section 33(1).

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

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

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

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

22 (ii) Interest on regulatory liabilities.

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

25 (iv) Revenue derived from the provision of renewable energy or
26 advanced cleaner energy to retail electric customers subject to a
27 power supply cost recovery clause under section 6j of 1939 PA 3,

1 MCL 460.6j, of an electric provider whose rates are regulated by
2 the commission. After providing an opportunity for a contested case
3 hearing for an electric provider whose rates are regulated by the
4 commission, the commission shall annually establish a price per
5 megawatt hour. In addition, an electric provider whose rates are
6 regulated by the commission may at any time petition the commission
7 to revise the price. In setting the price per megawatt hour under
8 this subparagraph, the commission shall consider factors including,
9 but not limited to, projected capacity, energy, maintenance, and
10 operating costs; information filed under section 6j of 1939 PA 3,
11 MCL 460.6j; and information from wholesale markets, including, but
12 not limited to, locational marginal pricing. This price shall be
13 multiplied by the sum of the number of megawatt hours of renewable
14 energy and the number of megawatt hours of advanced cleaner energy
15 used to maintain compliance with the renewable energy standard. The
16 product shall be considered a booked cost of purchased and net
17 interchanged power transactions under section 6j of 1939 PA 3, MCL
18 460.6j. For energy purchased by such an electric provider under a
19 renewable energy contract or advanced cleaner energy contract, the
20 price shall be the lower of the amount established by the
21 commission or the actual price paid and shall be multiplied by the
22 number of megawatt hours of renewable energy or advanced cleaner
23 energy purchased. The resulting value shall be considered a booked
24 cost of purchased and net interchanged power under section 6j of
25 1939 PA 3, MCL 460.6j.

26 (v) Revenue from wholesale renewable energy sales and advanced
27 cleaner energy sales. Such revenue shall not be considered in

1 determining power supply cost recovery factors under section 6j of
2 1939 PA 3, MCL 460.6j.

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

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

8 (3) ~~The commission shall authorize~~ **IF, BEFORE THE EFFECTIVE**
9 **DATE OF THE 2016 ACT THAT AMENDED THIS SECTION, THE COMMISSION**
10 **AUTHORIZED** an electric provider whose rates are regulated by the
11 commission to spend in any given month more to comply with this act
12 and implement an approved renewable energy plan than the revenue
13 actually generated by the **FORMER** revenue recovery mechanism, ~~An~~
14 ~~electric provider whose rates are regulated by the commission~~ **THE**
15 **PROVIDER** shall recover its commission approved pre-tax rate of
16 return on regulatory assets during the appropriate period. An
17 electric provider whose rates are regulated by the commission shall
18 record interest on regulatory liabilities at the average short-term
19 borrowing rate available to the electric provider during the
20 appropriate period. Any regulatory assets or liabilities resulting
21 from the recovery costs of renewable energy or advanced cleaner
22 energy attributable to **THE FORMER** renewable energy standards
23 through the power supply cost recovery clause under section 6j of
24 1939 PA 3, MCL 460.6j, shall continue to be reconciled under that
25 section.

26 ~~—— (4) If an electric provider's incremental costs of compliance~~
27 ~~in any given month during the 20-year period beginning when the~~

1 ~~electric provider's plan is approved by the commission are in~~
2 ~~excess of the revenue recovery mechanism as adjusted under section~~
3 ~~49 and in excess of the balance of any accumulated reserve funds,~~
4 ~~subject to the minimum balance established under section 21, the~~
5 ~~electric provider shall immediately notify the commission. The~~
6 ~~commission shall promptly commence a contested case hearing~~
7 ~~pursuant to the administrative procedures act of 1969, 1969 PA 306,~~
8 ~~MCL 24.201 to 24.328, and modify the revenue recovery mechanism so~~
9 ~~that the minimum balance is restored. However, if the commission~~
10 ~~determines that recovery of the incremental costs of compliance~~
11 ~~would otherwise exceed the maximum retail rate impacts specified~~
12 ~~under section 45, it shall set the revenue recovery mechanism for~~
13 ~~that electric provider to correspond to the maximum retail rate~~
14 ~~impacts. Excess costs shall be accrued and deferred for recovery.~~
15 ~~Not later than the expiration of the 20 year period beginning when~~
16 ~~the electric provider's plan is approved by the commission, for an~~
17 ~~electric provider whose rates are regulated by the commission, the~~
18 ~~commission shall determine the amount of deferred costs to be~~
19 ~~recovered under the revenue recovery mechanism and the recovery~~
20 ~~period, which shall not extend more than 5 years beyond the~~
21 ~~expiration of the 20 year period beginning when the electric~~
22 ~~provider's plan is approved by the commission. The recovery of~~
23 ~~excess costs shall be proportional to the retail rate impact limits~~
24 ~~in section 45 for each customer class. The recovery of excess costs~~
25 ~~alone, or, if begun before the expiration of the 20 year period, in~~
26 ~~combination with the recovery of incremental costs of compliance~~
27 ~~under the revenue recovery mechanism, shall not exceed the retail~~

1 ~~rate impact limits of section 45 for each customer class.~~

2 (4) ~~(5)~~—If, at the expiration of the 20-year period beginning
3 when the electric provider's plan is approved by the commission, an
4 electric provider whose rates are regulated by the commission has a
5 regulatory liability, the refund to customer classes shall be
6 proportional to the amounts paid by those customer classes under
7 the **FORMER** revenue recovery mechanism.

8 (5) ~~(6)~~—After achieving compliance with the renewable energy
9 standard for 2015, ~~the actual costs reasonably and prudently~~
10 ~~incurred to continue to comply with this subpart both during and~~
11 ~~after the conclusion of the 20-year period beginning when the~~
12 ~~electric provider's plan is approved by the commission shall be~~
13 ~~considered costs of service. The commission shall determine a~~
14 ~~mechanism for an electric provider whose rates are regulated by the~~
15 ~~commission to recover these costs in its retail electric rates,~~
16 ~~subject to the retail rate impact limits in section 45. Remaining~~
17 ~~and future~~ **REMAINING** regulatory assets shall be recovered
18 consistent with subsections (2) and (3). ~~and section 49.~~

19 (6) **AS USED IN THIS SECTION:**

20 (A) **"ADVANCED CLEANER ENERGY" MEANS ELECTRICITY GENERATED**
21 **USING AN ADVANCED CLEANER ENERGY SYSTEM.**

22 (B) **"ADVANCED CLEANER ENERGY SYSTEM" MEANS ANY OF THE**
23 **FOLLOWING:**

24 (i) **A GASIFICATION FACILITY.**

25 (ii) **A COGENERATION FACILITY.**

26 (iii) **A COAL-FIRED ELECTRIC GENERATING FACILITY IF 85% OR MORE**
27 **OF THE CARBON DIOXIDE EMISSIONS ARE CAPTURED AND PERMANENTLY**

1 GEOLOGICALLY SEQUESTERED OR USED FOR OTHER COMMERCIAL OR INDUSTRIAL
 2 PURPOSES THAT DO NOT RESULT IN RELEASE OF CARBON DIOXIDE TO THE
 3 ATMOSPHERE.

4 (iv) A HYDROELECTRIC PUMPED STORAGE FACILITY.

5 (v) AN ELECTRIC GENERATING FACILITY OR SYSTEM THAT USES
 6 TECHNOLOGIES NOT IN COMMERCIAL OPERATION ON OCTOBER 6, 2008 AND
 7 THAT THE COMMISSION DETERMINES HAS CARBON DIOXIDE EMISSIONS
 8 BENEFITS OR WILL SIGNIFICANTLY REDUCE OTHER REGULATED AIR
 9 EMISSIONS.

10 Sec. 49. (1) This section applies only to an electric provider
 11 whose rates are regulated by the commission. ~~Concurrent with the~~
 12 ~~submission of each report under section 51, the~~ **THE** commission
 13 shall **ANNUALLY** commence ~~an annual~~ **A** proceeding, to be known as a
 14 renewable cost reconciliation, for each electric provider whose
 15 rates are regulated by the commission. The renewable cost
 16 reconciliation proceeding shall be conducted as a contested case
 17 pursuant to the administrative procedures act of 1969, 1969 PA 306,
 18 MCL 24.201 to 24.328. Reasonable discovery shall be permitted
 19 before and during the reconciliation proceeding to assist in
 20 obtaining evidence concerning reconciliation issues including, but
 21 not limited to, the reasonableness and prudence of expenditures and
 22 the amounts collected ~~pursuant to the revenue recovery mechanism.~~ **AS**
 23 **A RESULT OF THE ELECTRIC PROVIDER'S COMPLIANCE, BEFORE THE**
 24 **EFFECTIVE DATE OF THE 2016 ACT THAT AMENDED THIS SECTION, WITH THE**
 25 **ELECTRIC PROVIDER'S RENEWABLE ENERGY PLAN UNDER FORMER SECTION 21.**

26 ~~—— (2) At the renewable cost reconciliation, an electric provider~~
 27 ~~may propose any necessary modifications of the revenue recovery~~

1 ~~mechanism to ensure the electric provider's recovery of its~~
2 ~~incremental cost of compliance with the renewable energy standards.~~

3 (2) ~~(3)~~—The commission shall reconcile the pertinent revenues
4 recorded and the allowance for the nonvolumetric revenue recovery
5 mechanism with the amounts actually expensed and projected.

6 ~~according to the electric provider's plan for compliance.~~ The
7 commission shall consider any issue regarding the reasonableness
8 and prudence of expenses for which customers were charged in the
9 relevant reconciliation period. In its order, the commission shall
10 ~~do all of the following:~~

11 ~~—— (a) Make a determination of an electric provider's compliance~~
12 ~~with the renewable energy standards, subject to section 31.~~

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

20 ~~—— (c) Establish~~ **ESTABLISH** the price per megawatt hour for
21 renewable energy and advanced cleaner energy capacity and for
22 renewable energy and advanced cleaner energy to be recovered
23 through the power supply cost recovery clause under section 6j of
24 1939 PA 3, MCL 460.6j, as outlined in section 47(2)(b)(iv).

25 ~~—— (d) Adjust, if needed, the minimum balance of accumulated~~
26 ~~reserve funds established under section 21.~~

27 (3) ~~(4)~~—If an electric provider has recorded a regulatory

1 liability in any given month during the 20-year period beginning
2 when the electric provider's **FORMER RENEWABLE ENERGY** plan ~~is~~ **WAS**
3 approved by the commission, interest on the regulatory liability
4 balance shall be accrued at the average short-term borrowing rate
5 available to the electric provider during the appropriate period,
6 and shall be used to fund incremental costs of compliance incurred
7 in subsequent periods within the 20-year period beginning when the
8 electric provider's plan ~~is~~ **WAS** approved by the commission.

9 (4) AS USED IN THIS SECTION, "ADVANCED CLEANER ENERGY" MEANS
10 THAT TERM AS DEFINED IN SECTION 47.

11 SUBPART B. CUSTOMER-REQUESTED RENEWABLE ENERGY

12 SEC. 61. AN ELECTRIC PROVIDER SHALL OFFER TO ITS CUSTOMERS THE
13 OPPORTUNITY TO PARTICIPATE IN A VOLUNTARY GREEN PRICING PROGRAM
14 UNDER WHICH THE CUSTOMER MAY SPECIFY, FROM THE OPTIONS MADE
15 AVAILABLE BY THE ELECTRIC PROVIDER, THE AMOUNT OF ELECTRICITY
16 ATTRIBUTABLE TO THE CUSTOMER THAT WILL BE RENEWABLE ENERGY. IF THE
17 ELECTRIC PROVIDER'S RATES ARE REGULATED BY THE COMMISSION, THE
18 PROGRAM, INCLUDING THE RATES PAID FOR RENEWABLE ENERGY, MUST BE
19 APPROVED BY THE COMMISSION. THE CUSTOMER IS RESPONSIBLE FOR ANY
20 ADDITIONAL COSTS INCURRED AND SHALL ACCRUE ANY ADDITIONAL SAVINGS
21 REALIZED BY THE ELECTRIC PROVIDER AS A RESULT OF THE CUSTOMER'S
22 PARTICIPATION IN THE PROGRAM. IF AN ELECTRIC PROVIDER HAS NOT YET
23 FULLY RECOVERED THE INCREMENTAL COSTS OF COMPLIANCE, BOTH OF THE
24 FOLLOWING APPLY:

25 (A) A CUSTOMER THAT RECEIVES AT LEAST 50% OF THE CUSTOMER'S
26 AVERAGE MONTHLY ELECTRICITY CONSUMPTION THROUGH THE PROGRAM IS
27 EXEMPT FROM PAYING SURCHARGES FOR INCREMENTAL COSTS OF COMPLIANCE.

1 (B) BEFORE ENTERING INTO AN AGREEMENT TO PARTICIPATE IN A
 2 COMMISSION-APPROVED VOLUNTARY GREEN PRICING PROGRAM WITH A CUSTOMER
 3 THAT WILL NOT RECEIVE AT LEAST 50% OF THE CUSTOMER'S AVERAGE
 4 MONTHLY ELECTRICITY CONSUMPTION THROUGH THE PROGRAM, THE ELECTRIC
 5 PROVIDER SHALL NOTIFY THE CUSTOMER THAT THE CUSTOMER WILL BE
 6 RESPONSIBLE FOR THE FULL APPLICABLE CHARGES FOR THE INCREMENTAL
 7 COSTS OF COMPLIANCE AND FOR PARTICIPATION IN THE VOLUNTARY
 8 RENEWABLE ENERGY PROGRAM AS PROVIDED UNDER THIS SECTION.

9 SUBPART B.—C. ENERGY OPTIMIZATION—WASTE REDUCTION

10 Sec. 71. (1) A provider shall file a proposed energy
 11 optimization plan with the commission within the following time
 12 period:

13 (a) For a provider whose rates are regulated by the
 14 commission, ~~90 days after the commission enters a temporary order~~
 15 ~~under section 171.~~ **BY MARCH 3, 2009.**

16 (b) For a cooperative electric utility that has elected to
 17 become member-regulated under the electric cooperative member
 18 ~~regulation~~ **MEMBER-REGULATION** act, 2008 PA 167, MCL 460.31 to
 19 460.39, or a municipally-owned electric utility, ~~120 days after the~~
 20 ~~commission enters a temporary order under section 171.~~ **BY APRIL 2,**
 21 **2009.**

22 (2) **ENERGY OPTIMIZATION PLANS FILED UNDER SUBSECTION (1)**
 23 **REMAIN IN EFFECT, SUBJECT TO ANY AMENDMENTS, AS ENERGY WASTE**
 24 **REDUCTION PLANS.**

25 (3) ~~(2)~~ The overall goal of an energy ~~optimization~~ **WASTE**
 26 **REDUCTION** plan shall be to **HELP THE PROVIDER'S CUSTOMERS REDUCE**
 27 **ENERGY WASTE AND TO** reduce the future costs of provider service to

1 customers. In particular, an ~~EO~~ **ELECTRIC PROVIDER'S ENERGY WASTE**
2 **REDUCTION** plan shall be designed to delay the need for constructing
3 new electric generating facilities and thereby protect consumers
4 from incurring the costs of such construction. ~~The proposed energy~~
5 ~~optimization plan shall be subject to approval in the same manner~~
6 ~~as an electric provider's renewable energy plan under subpart A. A~~
7 ~~provider may combine its energy optimization plan with its~~
8 ~~renewable energy plan.~~

9 (4) ~~(3)~~ An energy ~~optimization~~ **WASTE REDUCTION** plan shall do
10 all of the following:

11 (a) Propose a set of energy ~~optimization~~ **WASTE REDUCTION**
12 programs that include offerings for each customer class, including
13 ~~low income~~ **LOW-INCOME** residential. The commission shall allow
14 ~~providers~~ **A PROVIDER** flexibility to tailor the relative amount of
15 effort devoted to each customer class based on the specific
16 characteristics of ~~their~~ **THE PROVIDER'S** service territory.

17 (b) Specify necessary funding levels.

18 (c) Describe how energy ~~optimization~~ **WASTE REDUCTION** program
19 costs will be recovered as provided in section 89(2).

20 (d) Ensure, to the extent feasible, that charges collected
21 from a particular customer rate class are spent on energy
22 ~~optimization~~ **WASTE REDUCTION** programs for that rate class.

23 (e) Demonstrate that the proposed energy ~~optimization~~ **WASTE**
24 **REDUCTION** programs and funding are sufficient to ensure the
25 achievement of applicable energy ~~optimization~~ **WASTE REDUCTION**
26 standards.

27 (f) Specify whether the number of megawatt hours of

1 electricity or decatherms or MCFs of natural gas used in the
2 calculation of incremental energy savings under section 77 will be
3 weather-normalized or based on the average number of megawatt hours
4 of electricity or decatherms or MCFs of natural gas sold by the
5 provider annually during the previous 3 years to retail customers
6 in this state. Once the plan is approved by the commission, this
7 option shall not be changed.

8 (g) Demonstrate that the provider's energy ~~optimization~~-**WASTE**
9 **REDUCTION** programs, excluding program offerings to ~~low-income~~-**LOW-**
10 **INCOME** residential customers, will collectively be cost-effective.

11 (h) Provide for the practical and effective administration of
12 the proposed energy ~~optimization~~-**WASTE REDUCTION** programs. The
13 commission shall allow providers flexibility in designing their
14 energy ~~optimization~~-**WASTE REDUCTION** programs and administrative
15 approach. A provider's energy ~~optimization~~-**WASTE REDUCTION** programs
16 or any part thereof, may be administered, at the provider's option,
17 by the provider, alone or jointly with other providers, by a state
18 agency, or by an appropriate experienced nonprofit organization
19 selected after a competitive bid process.

20 (i) Include a process for obtaining an independent expert
21 evaluation of the actual energy ~~optimization~~-**WASTE REDUCTION**
22 programs to verify the incremental energy savings from each energy
23 ~~optimization~~-**WASTE REDUCTION** program for purposes of section 77.
24 All such evaluations ~~shall be~~-**ARE** subject to public review and
25 commission oversight.

26 (5) ~~(4)~~-Subject to subsection ~~(5)~~, ~~(6)~~, an energy ~~optimization~~
27 **WASTE REDUCTION** plan may do 1 or more of the following:

1 (a) Utilize educational programs designed to alter consumer
2 behavior or any other measures that can reasonably be used to meet
3 the goals set forth in subsection ~~(2)~~(3).

4 (b) Propose to the commission measures that are designed to
5 meet the goals set forth in subsection ~~(1)~~(3) and that provide
6 additional customer benefits.

7 (6) ~~(5)~~Expenditures under subsection ~~(4)~~(5) shall not exceed
8 3% of the costs of implementing the energy ~~optimization~~**WASTE**
9 **REDUCTION** plan.

10 (7) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.

11 SEC. 72. (1) FORMER SECTION 71 REQUIRED A NATURAL GAS PROVIDER
12 TO FILE A PROPOSED ENERGY OPTIMIZATION PLAN WITH THE COMMISSION BY
13 MARCH 3, 2009. THOSE PLANS REMAIN IN EFFECT, SUBJECT TO ANY
14 AMENDMENTS, AS ENERGY WASTE REDUCTION PLANS.

15 (2) THE OVERALL GOAL OF AN ENERGY WASTE REDUCTION PLAN SHALL
16 BE TO HELP THE NATURAL GAS PROVIDER'S CUSTOMERS REDUCE ENERGY WASTE
17 AND TO REDUCE THE FUTURE COSTS OF NATURAL GAS PROVIDER SERVICE TO
18 CUSTOMERS.

19 (3) AN ENERGY WASTE REDUCTION PLAN SHALL DO ALL OF THE
20 FOLLOWING:

21 (A) PROPOSE A SET OF ENERGY WASTE REDUCTION PROGRAMS THAT
22 INCLUDE OFFERINGS FOR EACH CUSTOMER CLASS, INCLUDING LOW-INCOME
23 RESIDENTIAL. THE COMMISSION SHALL ALLOW A PROVIDER FLEXIBILITY TO
24 TAILOR THE RELATIVE AMOUNT OF EFFORT DEVOTED TO EACH CUSTOMER CLASS
25 BASED ON THE SPECIFIC CHARACTERISTICS OF THE PROVIDER'S SERVICE
26 TERRITORY.

27 (B) SPECIFY NECESSARY FUNDING LEVELS.

1 (C) DESCRIBE HOW ENERGY WASTE REDUCTION PROGRAM COSTS WILL BE
2 RECOVERED AS PROVIDED IN SECTION 89A(2), INCLUDING SPECIFYING
3 WHETHER THE CHARGES TO RECOVER COSTS UNDER SECTION 89A(2) WILL BE
4 VOLUMETRIC OR FIXED PER-METER CHARGES.

5 (D) ENSURE, TO THE EXTENT FEASIBLE, THAT CHARGES COLLECTED
6 FROM A PARTICULAR CUSTOMER RATE CLASS ARE SPENT ON ENERGY WASTE
7 REDUCTION PROGRAMS FOR THAT RATE CLASS.

8 (E) DEMONSTRATE THAT THE PROPOSED ENERGY WASTE REDUCTION
9 PROGRAMS AND FUNDING ARE SUFFICIENT TO ENSURE THE ACHIEVEMENT OF
10 APPLICABLE ENERGY WASTE REDUCTION STANDARDS.

11 (F) SPECIFY WHETHER THE NUMBER OF DECATHERMS OR MCFS OF
12 NATURAL GAS USED IN THE CALCULATION OF INCREMENTAL ENERGY SAVINGS
13 UNDER SECTION 77A WILL BE WEATHER-NORMALIZED OR BASED ON THE
14 AVERAGE NUMBER OF DECATHERMS OR MCFS OF NATURAL GAS SOLD BY THE
15 PROVIDER ANNUALLY DURING THE PREVIOUS 3 YEARS TO RETAIL CUSTOMERS
16 IN THIS STATE. ONCE THE PLAN IS APPROVED BY THE COMMISSION, THIS
17 OPTION SHALL NOT BE CHANGED.

18 (G) DEMONSTRATE THAT THE PROVIDER'S ENERGY WASTE REDUCTION
19 PROGRAMS, EXCLUDING PROGRAM OFFERINGS TO LOW-INCOME RESIDENTIAL
20 CUSTOMERS, WILL COLLECTIVELY BE COST-EFFECTIVE.

21 (H) PROVIDE FOR THE PRACTICAL AND EFFECTIVE ADMINISTRATION OF
22 THE PROPOSED ENERGY WASTE REDUCTION PROGRAMS. THE COMMISSION SHALL
23 ALLOW NATURAL GAS PROVIDERS FLEXIBILITY IN DESIGNING THEIR ENERGY
24 WASTE REDUCTION PROGRAMS AND ADMINISTRATIVE APPROACH, INCLUDING THE
25 FLEXIBILITY TO DETERMINE THE RELATIVE AMOUNT OF EFFORT TO BE
26 DEVOTED TO EACH CUSTOMER CLASS BASED ON THE SPECIFIC
27 CHARACTERISTICS OF THE NATURAL GAS PROVIDER'S SERVICE TERRITORY. A

1 NATURAL GAS PROVIDER'S ENERGY WASTE REDUCTION PROGRAMS OR ANY PART
2 THEREOF MAY BE ADMINISTERED, AT THE NATURAL GAS PROVIDER'S OPTION,
3 BY THE PROVIDER, ALONE OR JOINTLY WITH OTHER NATURAL GAS PROVIDERS,
4 BY A STATE AGENCY, OR BY AN APPROPRIATE EXPERIENCED NONPROFIT
5 ORGANIZATION SELECTED AFTER A COMPETITIVE BID PROCESS.

6 (I) INCLUDE A PROCESS FOR OBTAINING AN INDEPENDENT EXPERT
7 EVALUATION OF THE ACTUAL ENERGY WASTE REDUCTION PROGRAMS TO VERIFY
8 THE INCREMENTAL ENERGY SAVINGS FROM EACH ENERGY WASTE REDUCTION
9 PROGRAM FOR PURPOSES OF SECTION 77A. ALL SUCH EVALUATIONS ARE
10 SUBJECT TO PUBLIC REVIEW AND COMMISSION OVERSIGHT.

11 (4) SUBJECT TO SUBSECTION (5), AN ENERGY WASTE REDUCTION PLAN
12 MAY DO 1 OR MORE OF THE FOLLOWING:

13 (A) UTILIZE EDUCATIONAL PROGRAMS DESIGNED TO ALTER CONSUMER
14 BEHAVIOR OR ANY OTHER MEASURES THAT CAN REASONABLY BE USED TO MEET
15 THE GOAL SET FORTH IN SUBSECTION (2).

16 (B) PROPOSE TO THE COMMISSION MEASURES THAT ARE DESIGNED TO
17 MEET THE GOAL SET FORTH IN SUBSECTION (2) AND THAT PROVIDE
18 ADDITIONAL CUSTOMER BENEFITS.

19 (5) EXPENDITURES UNDER SUBSECTION (4) SHALL NOT EXCEED 3% OF
20 THE COSTS OF IMPLEMENTING THE ENERGY WASTE REDUCTION PLAN.

21 (6) THIS SECTION TAKES EFFECT JANUARY 1, 2021.

22 Sec. 73. (1) A provider's energy ~~optimization~~ WASTE REDUCTION
23 plan shall be filed WITH, reviewed BY, and approved or rejected by
24 the commission. ~~and enforced subject to the same procedures that~~
25 ~~apply to a renewable energy plan.~~ FOR A PROVIDER WHOSE RATES ARE
26 REGULATED BY THE COMMISSION, THE PLAN SHALL BE ENFORCED BY THE
27 COMMISSION. FOR A PROVIDER WHOSE RATES ARE NOT REGULATED BY THE

1 COMMISSION, THE PLAN SHALL BE ENFORCED AS PROVIDED IN SECTION 99.
2 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBPART, THE COMMISSION
3 SHALL ALLOW MUNICIPALLY OWNED ELECTRIC UTILITIES TO DESIGN AND
4 ADMINISTER ENERGY WASTE REDUCTION PLANS IN A MANNER CONSISTENT WITH
5 THE ADMINISTRATIVE CHANGES APPROVED IN THE COMMISSION'S APRIL 17,
6 2012 ORDER IN CASE NOS. U-16688 TO U-16728 AND U-17008.

7 (2) The commission shall not approve a proposed energy
8 ~~optimization~~ **WASTE REDUCTION** plan unless the commission determines
9 that the ~~EO~~ **ENERGY WASTE REDUCTION** plan meets the utility system
10 resource cost test and is reasonable and prudent. In determining
11 whether the ~~EO~~ **ENERGY WASTE REDUCTION** plan is reasonable and
12 prudent, the commission shall review each element and consider
13 whether it would reduce the future cost of service for the
14 provider's customers. In addition, the commission shall consider at
15 least all of the following:

16 (a) The specific changes in customers' consumption patterns
17 that the proposed ~~EO~~ **ENERGY WASTE REDUCTION** plan is attempting to
18 influence.

19 (b) The cost and benefit analysis and other justification for
20 specific programs and measures included in a proposed ~~EO~~ **ENERGY**
21 **WASTE REDUCTION** plan.

22 (c) Whether the proposed ~~EO~~ **ENERGY WASTE REDUCTION** plan is
23 consistent with any long-range resource plan filed by the provider
24 with the commission.

25 (d) Whether the proposed ~~EO~~ **ENERGY WASTE REDUCTION** plan will
26 result in any unreasonable prejudice or disadvantage to any class
27 of customers.

1 (e) The extent to which the ~~EO~~-ENERGY WASTE REDUCTION plan
2 provides programs that are available, affordable, and useful to all
3 customers.

4 (3) EVERY 2 YEARS AFTER INITIAL APPROVAL OF AN ENERGY WASTE
5 REDUCTION PLAN UNDER SUBSECTION (2), THE COMMISSION SHALL REVIEW
6 THE PLAN. FOR A PROVIDER WHOSE RATES ARE REGULATED BY THE
7 COMMISSION, THE COMMISSION SHALL CONDUCT A CONTESTED CASE HEARING
8 ON THE PLAN PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
9 1969 PA 306, MCL 24.201 TO 24.328. AFTER THE HEARING, THE
10 COMMISSION SHALL APPROVE, WITH ANY CHANGES CONSENTED TO BY THE
11 PROVIDER, OR REJECT THE PLAN AND ANY PROPOSED AMENDMENTS TO THE
12 PLAN.

13 (4) IF A PROVIDER PROPOSES TO AMEND ITS PLAN AT A TIME OTHER
14 THAN DURING THE BIENNIAL REVIEW PROCESS UNDER SUBSECTION (3), THE
15 PROVIDER SHALL FILE THE PROPOSED AMENDMENT WITH THE COMMISSION.
16 AFTER THE HEARING AND WITHIN 90 DAYS AFTER THE AMENDMENT IS FILED,
17 THE COMMISSION SHALL APPROVE, WITH ANY CHANGES CONSENTED TO BY THE
18 PROVIDER, OR REJECT THE PLAN AND THE PROPOSED AMENDMENT OR
19 AMENDMENTS TO THE PLAN.

20 (5) BY 270 DAYS AFTER THE EFFECTIVE DATE OF THE 2016 ACT THAT
21 AMENDED THIS SECTION, AN ELECTRIC PROVIDER SHALL FILE WITH THE
22 COMMISSION A PROPOSED PLAN AMENDMENT UNDER SUBSECTION (3) OR (4) TO
23 REFLECT THE TERMINATION OF THE ENERGY WASTE REDUCTION STANDARD
24 UNDER SECTION 77.

25 (6) IF THE COMMISSION REJECTS A PROPOSED PLAN OR AMENDMENT
26 UNDER THIS SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING THE
27 REASONS FOR ITS DETERMINATION.

1 (7) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.

2 SEC. 74. (1) A NATURAL GAS PROVIDER'S ENERGY WASTE REDUCTION
3 PLAN SHALL BE FILED WITH AND REVIEWED, APPROVED OR REJECTED, AND
4 ENFORCED BY THE COMMISSION.

5 (2) THE COMMISSION SHALL NOT APPROVE A PROPOSED ENERGY WASTE
6 REDUCTION PLAN UNLESS THE COMMISSION DETERMINES THAT THE ENERGY
7 WASTE REDUCTION PLAN MEETS THE UTILITY SYSTEM RESOURCE COST TEST
8 AND IS REASONABLE AND PRUDENT. IN DETERMINING WHETHER THE ENERGY
9 WASTE REDUCTION PLAN IS REASONABLE AND PRUDENT, THE COMMISSION
10 SHALL REVIEW EACH ELEMENT AND CONSIDER WHETHER IT WOULD REDUCE THE
11 FUTURE COST OF SERVICE FOR THE NATURAL GAS PROVIDER'S CUSTOMERS. IN
12 ADDITION, THE COMMISSION SHALL CONSIDER AT LEAST ALL OF THE
13 FOLLOWING:

14 (A) THE SPECIFIC CHANGES IN CUSTOMERS' CONSUMPTION PATTERNS
15 THAT THE PROPOSED ENERGY WASTE REDUCTION PLAN IS ATTEMPTING TO
16 INFLUENCE.

17 (B) THE COST AND BENEFIT ANALYSIS AND OTHER JUSTIFICATION FOR
18 SPECIFIC PROGRAMS AND MEASURES INCLUDED IN A PROPOSED ENERGY WASTE
19 REDUCTION PLAN.

20 (C) WHETHER THE PROPOSED ENERGY WASTE REDUCTION PLAN IS
21 CONSISTENT WITH ANY LONG-RANGE RESOURCE PLAN FILED BY THE PROVIDER
22 WITH THE COMMISSION.

23 (D) WHETHER THE PROPOSED ENERGY WASTE REDUCTION PLAN WILL
24 RESULT IN ANY UNREASONABLE PREJUDICE OR DISADVANTAGE TO ANY CLASS
25 OF CUSTOMERS.

26 (E) THE EXTENT TO WHICH THE ENERGY WASTE REDUCTION PLAN
27 PROVIDES PROGRAMS THAT ARE AVAILABLE, AFFORDABLE, AND USEFUL TO ALL

1 CUSTOMERS.

2 (3) EVERY 2 YEARS AFTER INITIAL APPROVAL OF AN ENERGY WASTE
3 REDUCTION PLAN UNDER SUBSECTION (2), THE COMMISSION SHALL REVIEW
4 THE ENERGY WASTE REDUCTION PLAN. FOR A PROVIDER WHOSE RATES ARE
5 REGULATED BY THE COMMISSION, THE COMMISSION SHALL CONDUCT A
6 CONTESTED CASE HEARING ON THE PLAN PURSUANT TO THE ADMINISTRATIVE
7 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. AFTER
8 THE HEARING, THE COMMISSION SHALL APPROVE, WITH ANY CHANGES
9 CONSENTED TO BY THE NATURAL GAS PROVIDER, OR REJECT THE ENERGY
10 WASTE REDUCTION PLAN AND ANY PROPOSED AMENDMENTS TO THE ENERGY
11 WASTE REDUCTION PLAN.

12 (4) IF A NATURAL GAS PROVIDER PROPOSES TO AMEND ITS ENERGY
13 WASTE REDUCTION PLAN AT A TIME OTHER THAN DURING THE BIENNIAL
14 REVIEW PROCESS UNDER SUBSECTION (3), THE PROVIDER SHALL FILE THE
15 PROPOSED AMENDMENT WITH THE COMMISSION. AFTER THE HEARING AND
16 WITHIN 90 DAYS AFTER THE AMENDMENT IS FILED, THE COMMISSION SHALL
17 APPROVE, WITH ANY CHANGES CONSENTED TO BY THE PROVIDER, OR REJECT
18 THE PROPOSED AMENDMENT OR AMENDMENTS TO THE ENERGY WASTE REDUCTION
19 PLAN.

20 (5) IF THE COMMISSION REJECTS A PROPOSED AMENDMENT UNDER THIS
21 SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING THE REASONS FOR
22 ITS DETERMINATION.

23 (6) THIS SECTION TAKES EFFECT JANUARY 1, 2021.

24 Sec. 75. (1) An energy ~~optimization~~ **WASTE REDUCTION** plan of a
25 provider whose rates are regulated by the commission may authorize
26 a commensurate financial incentive for the provider for exceeding
27 the energy ~~optimization~~ **WASTE REDUCTION** performance standard.

1 Payment of any financial incentive authorized in the ~~EO~~**ENERGY**
2 **WASTE REDUCTION** plan is subject to the approval of the commission.
3 The total amount of a financial incentive shall not exceed the
4 lesser of the following amounts:

5 (a) 25% of the net cost reductions experienced by the
6 provider's customers as a result of implementation of the energy
7 optimization plan.

8 (b) ~~15 percent~~**20%** of the provider's actual energy ~~efficiency~~
9 **WASTE REDUCTION** program expenditures for the year.

10 (2) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.**

11 **SEC. 76. (1) AN ENERGY WASTE REDUCTION PLAN OF A NATURAL GAS**
12 **PROVIDER WHOSE RATES ARE REGULATED BY THE COMMISSION MAY AUTHORIZE**
13 **A COMMENSURATE FINANCIAL INCENTIVE FOR THE PROVIDER FOR EXCEEDING**
14 **THE ENERGY WASTE REDUCTION PERFORMANCE STANDARD. PAYMENT OF ANY**
15 **FINANCIAL INCENTIVE AUTHORIZED IN THE ENERGY WASTE REDUCTION PLAN**
16 **IS SUBJECT TO THE APPROVAL OF THE COMMISSION. THE TOTAL AMOUNT OF A**
17 **FINANCIAL INCENTIVE SHALL NOT EXCEED THE LESSER OF THE FOLLOWING**
18 **AMOUNTS:**

19 (A) **25% OF THE NET COST REDUCTIONS EXPERIENCED BY THE**
20 **PROVIDER'S CUSTOMERS AS A RESULT OF IMPLEMENTATION OF THE ENERGY**
21 **OPTIMIZATION PLAN.**

22 (B) **20% OF THE PROVIDER'S ACTUAL ENERGY WASTE REDUCTION**
23 **PROGRAM EXPENDITURES FOR THE YEAR.**

24 (2) **THIS SECTION TAKES EFFECT JANUARY 1, 2021.**

25 **Sec. 77. (1) Except as provided in section 81 and subject to**
26 **the sales revenue expenditure limits in section 89, SECTION 97, an**
27 **electric provider's energy ~~optimization~~**WASTE REDUCTION** programs**

1 under this subpart shall collectively achieve ~~the following minimum~~
2 ~~energy savings:~~

3 ~~—— (a) Biennial incremental energy savings in 2008-2009~~
4 ~~equivalent to 0.3% of total annual retail electricity sales in~~
5 ~~megawatt hours in 2007.~~

6 ~~—— (b) Annual incremental energy savings in 2010 equivalent to~~
7 ~~0.5% of total annual retail electricity sales in megawatt hours in~~
8 ~~2009.~~

9 ~~—— (c) Annual incremental energy savings in 2011 equivalent to~~
10 ~~0.75% of total annual retail electricity sales in megawatt hours in~~
11 ~~2010.~~

12 ~~—— (d) Annual incremental energy savings in 2012, 2013, 2014, and~~
13 ~~2015 and, subject to section 97, each year thereafter **INCREMENTAL**~~
14 ~~**ENERGY SAVINGS EACH YEAR THROUGH 2020** equivalent to 1.0% of total~~
15 ~~annual retail electricity sales in megawatt hours in the preceding~~
16 ~~year.~~

17 (2) If an electric provider uses load management to achieve
18 energy savings under its energy optimization ~~WASTE REDUCTION~~ plan,
19 the minimum energy savings required under subsection (1) shall be
20 adjusted by an amount such that the ratio of the minimum energy
21 savings to the sum of ~~maximum~~ **ACTUAL** expenditures ~~under section 89~~
22 ~~**FOR IMPLEMENTING ITS APPROVED ENERGY WASTE REDUCTION PLAN**~~ and the
23 load management expenditures remains constant.

24 ~~—— (3) A natural gas provider shall meet the following minimum~~
25 ~~energy optimization standards using energy efficiency programs~~
26 ~~under this subpart:~~

27 ~~—— (a) Biennial incremental energy savings in 2008-2009~~

1 ~~equivalent to 0.1% of total annual retail natural gas sales in~~
 2 ~~decatherms or equivalent MCFs in 2007.~~

3 ~~—— (b) Annual incremental energy savings in 2010 equivalent to~~
 4 ~~0.25% of total annual retail natural gas sales in decatherms or~~
 5 ~~equivalent MCFs in 2009.~~

6 ~~—— (c) Annual incremental energy savings in 2011 equivalent to~~
 7 ~~0.5% of total annual retail natural gas sales in decatherms or~~
 8 ~~equivalent MCFs in 2010.~~

9 (3) ~~(d) Annual~~ **SUBJECT TO SECTION 97, A NATURAL GAS PROVIDER'S**
 10 **ENERGY WASTE REDUCTION PROGRAM UNDER THIS SUBPART SHALL ACHIEVE**
 11 **ANNUAL** incremental energy savings ~~in 2012, 2013, 2014, and 2015~~
 12 ~~and, subject to section 97, each year thereafter~~ equivalent to
 13 0.75% of total annual retail natural gas sales in decatherms or
 14 equivalent MCFs in the preceding year.

15 (4) Incremental energy savings under subsection (1) or (3) for
 16 ~~the 2008-2009 biennium or any year thereafter~~ **A YEAR** shall be
 17 determined for a provider by adding the energy savings expected to
 18 be achieved during ~~a 1-year period~~ by energy optimization **WASTE**
 19 **REDUCTION** measures implemented during ~~the 2008-2009 biennium or any~~
 20 ~~year thereafter~~ **THAT YEAR** under any energy efficiency **WASTE**
 21 **REDUCTION** programs consistent with the provider's energy efficiency
 22 **WASTE REDUCTION** plan. **THE ENERGY SAVINGS EXPECTED TO BE ACHIEVED**
 23 **SHALL BE DETERMINED USING A SAVINGS DATABASE OR OTHER SAVINGS**
 24 **MEASUREMENT APPROACH AS DETERMINED REASONABLE BY THE COMMISSION.**

25 (5) For purposes of calculations under subsection (1) or (3),
 26 total annual retail electricity or natural gas sales in a year
 27 shall be based on 1 of the following at the option of the provider

1 as specified in its energy optimization ~~WASTE REDUCTION~~ plan:

2 (a) The number of weather-normalized megawatt hours or
3 decatherms or equivalent MCFs sold by the provider to retail
4 customers in this state during the year preceding the ~~biennium or~~
5 year for which incremental energy savings are being calculated.

6 (b) The average number of megawatt hours or decatherms or
7 equivalent MCFs sold by the provider during the 3 years preceding
8 the ~~biennium or~~ year for which incremental energy savings are being
9 calculated.

10 ~~—— (6) For any year after 2012, an electric provider may~~
11 ~~substitute renewable energy credits associated with renewable~~
12 ~~energy generated that year from a renewable energy system~~
13 ~~constructed after the effective date of this act, advanced cleaner~~
14 ~~energy credits other than credits from industrial cogeneration~~
15 ~~using industrial waste energy, load management that reduces overall~~
16 ~~energy usage, or a combination thereof for energy optimization~~
17 ~~credits otherwise required to meet the energy optimization~~
18 ~~performance standard, if the substitution is approved by the~~
19 ~~commission. The commission shall not approve a substitution unless~~
20 ~~the commission determines that the substitution is cost effective~~
21 ~~and, if the substitution involves advanced cleaner energy credits,~~
22 ~~that the advanced cleaner energy system provides carbon dioxide~~
23 ~~emissions benefits. In determining whether the substitution of~~
24 ~~advanced cleaner energy credits is cost effective compared to other~~
25 ~~available energy optimization measures, the commission shall~~
26 ~~consider the environmental costs related to the advanced cleaner~~
27 ~~energy system, including the costs of environmental control~~

1 ~~equipment or greenhouse gas constraints or taxes. The commission's~~
2 ~~determinations shall be made after a contested case hearing that~~
3 ~~includes consultation with the department of environmental quality~~
4 ~~on the issue of carbon dioxide emissions benefits, if relevant, and~~
5 ~~environmental costs.~~

6 ~~—— (7) Renewable energy credits, advanced cleaner energy credits,~~
7 ~~load management that reduces overall energy usage, or a combination~~
8 ~~thereof shall not be used by a provider to meet more than 10% of~~
9 ~~the energy optimization standard. Substitutions for energy~~
10 ~~optimization credits shall be made at the following rates per~~
11 ~~energy optimization credit:~~

12 ~~—— (a) 1 renewable energy credit.~~

13 ~~—— (b) 1 advanced cleaner energy credit from plasma arc~~
14 ~~gasification.~~

15 ~~—— (c) 4 advanced cleaner energy credits other than from plasma~~
16 ~~arc gasification.~~

17 (6) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.

18 SEC. 77A. (1) SUBJECT TO SECTION 78, A NATURAL GAS PROVIDER'S
19 ENERGY WASTE REDUCTION PROGRAM UNDER THIS SUBPART SHALL ACHIEVE
20 ANNUAL INCREMENTAL ENERGY SAVINGS IN 2021 AND EACH YEAR THEREAFTER
21 EQUIVALENT TO 0.75% OF TOTAL ANNUAL RETAIL NATURAL GAS SALES IN
22 DECATHERMS OR EQUIVALENT MCFS IN THE PRECEDING YEAR.

23 (2) INCREMENTAL ENERGY SAVINGS UNDER SUBSECTION (1) FOR A YEAR
24 SHALL BE DETERMINED FOR A NATURAL GAS PROVIDER BY ADDING THE ENERGY
25 SAVINGS EXPECTED TO BE ACHIEVED BY ENERGY WASTE REDUCTION MEASURES
26 IMPLEMENTED DURING THAT YEAR UNDER ANY ENERGY WASTE REDUCTION
27 PROGRAMS CONSISTENT WITH THE PROVIDER'S ENERGY WASTE REDUCTION

1 PLAN. THE ENERGY SAVINGS EXPECTED TO BE ACHIEVED SHALL BE
2 DETERMINED USING A SAVINGS DATABASE OR OTHER SAVINGS MEASUREMENT
3 APPROACH AS DETERMINED REASONABLE BY THE COMMISSION.

4 (3) FOR PURPOSES OF CALCULATIONS UNDER SUBSECTION (1), TOTAL
5 ANNUAL RETAIL NATURAL GAS SALES IN A YEAR SHALL BE BASED ON 1 OF
6 THE FOLLOWING AT THE OPTION OF THE NATURAL GAS PROVIDER AS
7 SPECIFIED IN ITS ENERGY WASTE REDUCTION PLAN:

8 (A) THE NUMBER OF WEATHER-NORMALIZED DECATHERMS OR EQUIVALENT
9 MCFS SOLD BY THE PROVIDER TO RETAIL CUSTOMERS IN THIS STATE DURING
10 THE YEAR PRECEDING THE YEAR FOR WHICH INCREMENTAL ENERGY SAVINGS
11 ARE BEING CALCULATED.

12 (B) THE AVERAGE NUMBER OF DECATHERMS OR EQUIVALENT MCFS SOLD
13 BY THE PROVIDER DURING THE 3 YEARS PRECEDING THE YEAR FOR WHICH
14 INCREMENTAL ENERGY SAVINGS ARE BEING CALCULATED.

15 (4) THIS SECTION TAKES EFFECT JANUARY 1, 2021.

16 SEC. 78. (1) IF OVER A 2-YEAR PERIOD A NATURAL GAS PROVIDER
17 CANNOT ACHIEVE THE ENERGY WASTE REDUCTION STANDARD IN A COST-
18 EFFECTIVE MANNER, THE NATURAL GAS PROVIDER MAY PETITION THE
19 COMMISSION TO ESTABLISH ALTERNATIVE ENERGY WASTE REDUCTION
20 STANDARDS FOR THAT PROVIDER.

21 (2) A PETITION FILED PURSUANT TO THIS SECTION SHALL:

22 (A) IDENTIFY THE EFFORTS TAKEN BY THE NATURAL GAS PROVIDER TO
23 MEET THE ENERGY WASTE REDUCTION STANDARD.

24 (B) EXPLAIN WHY THE ENERGY WASTE REDUCTION STANDARD CANNOT
25 REASONABLY AND COST-EFFECTIVELY BE ACHIEVED.

26 (C) PROPOSE A REVISED ENERGY WASTE REDUCTION STANDARD TO BE
27 ACHIEVED BY THE NATURAL GAS PROVIDER.

1 (3) IF, BASED ON A REVIEW OF THE PETITION FILED UNDER THIS
2 SECTION, THE COMMISSION DETERMINES THAT THE NATURAL GAS PROVIDER
3 HAS BEEN UNABLE TO REASONABLY AND COST-EFFECTIVELY ACHIEVE THE
4 ENERGY WASTE REDUCTION STANDARD, THE COMMISSION SHALL REVISE THE
5 ENERGY WASTE REDUCTION STANDARD AS APPLIED TO THE NATURAL GAS
6 PROVIDER TO A LEVEL THAT CAN REASONABLY AND COST-EFFECTIVELY BE
7 ACHIEVED.

8 Sec. 81. (1) This section applies to electric providers that
9 meet both of the following requirements:

10 (a) Serve not more than 200,000 customers in this state.

11 (b) Had average electric rates for residential customers using
12 1,000 kilowatt hours per month that ~~are~~**WERE** less than 75% of the
13 average electric rates for residential customers using 1,000
14 kilowatt hours per month for all electric utilities in this state,
15 according to the January 1, 2007, "comparison of average rates for
16 MPSC-regulated electric utilities in Michigan" compiled by the
17 commission.

18 (2) Beginning 2 years after a provider described in subsection
19 (1) begins implementation of its energy ~~optimization~~**WASTE**
20 **REDUCTION** plan, the provider may petition the commission to
21 establish alternative energy ~~optimization~~**WASTE REDUCTION**
22 standards. The petition shall identify the efforts taken by the
23 provider to meet the electric provider energy ~~optimization~~**WASTE**
24 **REDUCTION** standards and demonstrate why the energy ~~optimization~~
25 **WASTE REDUCTION** standards cannot reasonably be met with energy
26 ~~optimization~~**WASTE REDUCTION** programs that are collectively cost-
27 effective. If the commission finds that the petition meets the

1 requirements of this subsection, the commission shall revise the
2 energy ~~optimization~~-**WASTE REDUCTION** standards as applied to that
3 electric provider to a level that can reasonably be met with energy
4 ~~optimization~~-**WASTE REDUCTION** programs that are collectively cost-
5 effective.

6 **(3) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.**

7 Sec. 83. (1) One energy ~~optimization~~-**WASTE REDUCTION** credit
8 shall be granted to a ~~an~~ **ELECTRIC** provider for each megawatt hour
9 of annual incremental energy savings achieved through energy
10 ~~optimization~~-**WASTE REDUCTION**.

11 (2) An energy ~~optimization~~-**WASTE REDUCTION** credit expires as
12 follows:

13 (a) When used by a ~~the~~ **ELECTRIC** provider to comply with its
14 energy ~~optimization~~-**WASTE REDUCTION** performance standard.

15 ~~— (b) When substituted for a renewable energy credit under~~
16 ~~section 27.~~

17 **(B)** ~~(c)~~ As provided in subsection (3).

18 (3) If a ~~an~~ **ELECTRIC** provider's incremental energy savings in
19 ~~the 2008-2009 biennium or any year thereafter~~ exceed the applicable
20 energy ~~optimization~~-**WASTE REDUCTION** standard, the associated energy
21 ~~optimization~~-**WASTE REDUCTION** credits may be carried forward and
22 applied to the next year's energy ~~optimization~~-**WASTE REDUCTION**
23 standard. However, all of the following apply:

24 (a) The number of energy ~~optimization~~-**WASTE REDUCTION** credits
25 carried forward shall not exceed 1/3 of the next year's standard.
26 Any energy ~~optimization~~-**WASTE REDUCTION** credits carried forward to
27 the next year shall expire that year. Any remaining energy

1 ~~optimization~~ **WASTE REDUCTION** credits shall expire at the end of the
 2 year in which the incremental energy savings were achieved. ~~7~~
 3 ~~unless substituted, by an electric provider, for renewable energy~~
 4 ~~credits under section 27.~~

5 (b) Energy ~~optimization~~ **WASTE REDUCTION** credits shall not be
 6 carried forward if, for its performance during the same ~~biennium or~~
 7 year, the provider accepts a financial incentive under section 75.
 8 The excess energy ~~optimization~~ **WASTE REDUCTION** credits shall expire
 9 at the end of the year in which the incremental energy savings were
 10 achieved. ~~7, unless substituted, by an electric provider, for~~
 11 ~~renewable energy credits under section 27.~~

12 **(4) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.**

13 Sec. 85. (1) An energy ~~optimization~~ **WASTE REDUCTION** credit is
 14 not transferable to another entity.

15 ~~— (2) The commission, in the 2011 report under section 97, shall~~
 16 ~~make recommendations concerning a program for transferability of~~
 17 ~~energy optimization credits.~~

18 **(2) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.**

19 Sec. 87. (1) The commission shall establish an energy
 20 ~~optimization~~ **WASTE REDUCTION** credit certification and tracking
 21 program. The certification and tracking program may be contracted
 22 to and performed by a third party through a system of competitive
 23 bidding. The program shall include all of the following:

24 (a) A determination of the date after which energy
 25 ~~optimization~~ **WASTE REDUCTION** must be achieved to be eligible for an
 26 energy ~~optimization~~ **WASTE REDUCTION** credit.

27 ~~— (b) A method for ensuring that each energy optimization credit~~

1 ~~substituted for a renewable energy credit under section 27 or~~
2 ~~carried forward under section 83 is properly accounted for.~~

3 (B) ~~(e)~~—If the system is established by the commission,
4 allowance for issuance and use of energy ~~optimization~~ **WASTE**
5 **REDUCTION** credits in electronic form.

6 (2) **ONE ENERGY WASTE REDUCTION CREDIT SHALL BE GRANTED TO AN**
7 **ELECTRIC PROVIDER FOR EACH MEGAWATT HOUR OF ANNUAL INCREMENTAL**
8 **ENERGY SAVINGS ACHIEVED THROUGH ENERGY WASTE REDUCTION.**

9 Sec. 89. (1) The commission shall allow a provider whose rates
10 are regulated by the commission to recover the actual costs of
11 implementing its approved energy ~~optimization~~ **WASTE REDUCTION** plan.
12 However, costs exceeding the overall funding levels specified in
13 the energy ~~optimization~~ **WASTE REDUCTION** plan are not recoverable
14 unless those costs are reasonable and prudent and meet the utility
15 system resource cost test. Furthermore, costs for load management
16 undertaken pursuant to an energy ~~optimization~~ **WASTE REDUCTION** plan
17 are not recoverable as energy ~~optimization~~ **WASTE REDUCTION** program
18 costs under this section, but may be recovered as described in
19 section 95.

20 (2) Under subsection (1), costs shall be recovered from all
21 ~~natural gas customers and from residential electric customers by~~
22 ~~volumetric charges, from all other metered electric customers by~~
23 ~~per meter charges, and from unmetered electric customers by an~~
24 ~~appropriate charge, applied to utility bills as an itemized~~
25 ~~charge.~~ **OR FIXED, PER-METER CHARGES. FIXED, PER-METER CHARGES UNDER**
26 **THIS SUBSECTION MAY VARY BY RATE CLASS. CHARGES UNDER THIS**
27 **SUBSECTION MAY BE ITEMIZED ON UTILITY BILLS.**

1 ~~—— (3) For the electric primary customer rate class customers of~~
2 ~~electric providers and customers of natural gas providers with an~~
3 ~~aggregate annual natural gas billing demand of more than 100,000~~
4 ~~decatherms or equivalent MCFs for all sites in the natural gas~~
5 ~~utility's service territory, the cost recovery under subsection (1)~~
6 ~~shall not exceed 1.7% of total retail sales revenue for that~~
7 ~~customer class. For electric secondary customers and for~~
8 ~~residential customers, the cost recovery shall not exceed 2.2% of~~
9 ~~total retail sales revenue for those customer classes.~~

10 (3) ~~(4)~~ Upon petition by a provider whose rates are regulated
11 by the commission, the commission shall authorize the provider to
12 capitalize all energy efficiency and energy conservation equipment,
13 materials, and installation costs with an expected economic life
14 greater than 1 year incurred in implementing its energy
15 ~~optimization~~ **WASTE REDUCTION** plan, including such costs paid to
16 third parties, such as customer rebates and customer incentives.
17 The provider shall also propose depreciation treatment with respect
18 to its capitalized costs in its energy ~~optimization~~ **WASTE REDUCTION**
19 plan, and the commission shall order reasonable depreciation
20 treatment related to these capitalized costs. A provider shall not
21 capitalize payments made to an independent energy ~~optimization~~
22 **WASTE REDUCTION** program administrator under section 91.

23 (4) ~~(5)~~ The established funding level for low income
24 residential programs shall be provided from each customer rate
25 class in proportion to that customer rate class's funding of the
26 provider's total energy ~~optimization~~ **WASTE REDUCTION** programs.
27 Charges shall be applied to distribution customers regardless of

1 the source of their electricity or natural gas supply.

2 (5) ~~(6)~~—The commission shall authorize a natural gas provider
3 that spends a minimum of 0.5% of total natural gas retail sales
4 revenues, including natural gas commodity costs, in a year on
5 commission-approved energy ~~optimization~~ **WASTE REDUCTION** programs to
6 implement a symmetrical revenue decoupling true-up mechanism that
7 adjusts for sales ~~volumes~~ that are above or below the projected
8 levels that were used to determine the revenue requirement
9 authorized in the natural gas provider's most recent rate case. In
10 determining the symmetrical revenue decoupling true-up mechanism
11 utilized for each provider, the commission shall give deference to
12 the proposed mechanism submitted by the provider. The commission
13 may approve an alternative mechanism if the commission determines
14 that the alternative mechanism is reasonable and prudent. The
15 commission shall authorize the natural gas provider to decouple
16 rates regardless of whether the natural gas provider's energy
17 ~~optimization~~ **WASTE REDUCTION** programs are administered by the
18 provider or an independent energy ~~optimization~~ **WASTE REDUCTION**
19 program administrator under section 91.

20 ~~—— (7) A natural gas provider or an electric provider shall not~~
21 ~~spend more than the following percentage of total utility retail~~
22 ~~sales revenues, including electricity or natural gas commodity~~
23 ~~costs, in any year to comply with the energy optimization~~
24 ~~performance standard without specific approval from the commission:~~

25 ~~—— (a) In 2009, 0.75% of total retail sales revenues for 2007.~~

26 ~~—— (b) In 2010, 1.0% of total retail sales revenues for 2008.~~

27 ~~—— (c) In 2011, 1.5% of total retail sales revenues for 2009.~~

1 ~~—— (d) In 2012 and each year thereafter, 2.0% of total retail~~
2 ~~sales revenues for the 2 years preceding.~~

3 (6) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.

4 SEC. 89A. (1) THE COMMISSION SHALL ALLOW A NATURAL GAS
5 PROVIDER WHOSE RATES ARE REGULATED BY THE COMMISSION TO RECOVER THE
6 ACTUAL COSTS OF IMPLEMENTING ITS APPROVED ENERGY WASTE REDUCTION
7 PLAN. HOWEVER, COSTS EXCEEDING THE OVERALL FUNDING LEVELS SPECIFIED
8 IN THE ENERGY WASTE REDUCTION PLAN ARE NOT RECOVERABLE UNLESS THOSE
9 COSTS ARE REASONABLE AND PRUDENT AND MEET THE UTILITY SYSTEM
10 RESOURCE COST TEST.

11 (2) UNDER SUBSECTION (1), COSTS SHALL BE RECOVERED FROM ALL
12 NATURAL GAS CUSTOMERS BY VOLUMETRIC CHARGES OR FIXED, PER-METER
13 CHARGES AS SPECIFIED IN THE ENERGY WASTE REDUCTION PLAN. FIXED,
14 PER-METER CHARGES UNDER THIS SUBSECTION MAY VARY BY RATE CLASS.
15 CHARGES UNDER THIS SUBSECTION SHALL NOT BE ITEMIZED ON UTILITY
16 BILLS.

17 (3) UPON PETITION BY A NATURAL GAS PROVIDER WHOSE RATES ARE
18 REGULATED BY THE COMMISSION, THE COMMISSION SHALL AUTHORIZE THE
19 PROVIDER TO CAPITALIZE ALL ENERGY EFFICIENCY AND ENERGY
20 CONSERVATION EQUIPMENT, MATERIALS, AND INSTALLATION COSTS WITH AN
21 EXPECTED ECONOMIC LIFE GREATER THAN 1 YEAR INCURRED IN IMPLEMENTING
22 ITS ENERGY WASTE REDUCTION PLAN, INCLUDING SUCH COSTS PAID TO THIRD
23 PARTIES, SUCH AS CUSTOMER REBATES AND CUSTOMER INCENTIVES. THE
24 PROVIDER SHALL ALSO PROPOSE DEPRECIATION TREATMENT WITH RESPECT TO
25 ITS CAPITALIZED COSTS IN ITS ENERGY WASTE REDUCTION PLAN, AND THE
26 COMMISSION SHALL ORDER REASONABLE DEPRECIATION TREATMENT RELATED TO
27 THESE CAPITALIZED COSTS. A NATURAL GAS PROVIDER SHALL NOT

1 CAPITALIZE PAYMENTS MADE TO AN INDEPENDENT ENERGY WASTE REDUCTION
2 PROGRAM ADMINISTRATOR UNDER SECTION 91A.

3 (4) THE ESTABLISHED FUNDING LEVEL FOR LOW-INCOME RESIDENTIAL
4 PROGRAMS SHALL BE PROVIDED FROM EACH CUSTOMER RATE CLASS IN
5 PROPORTION TO THAT CUSTOMER RATE CLASS'S FUNDING OF THE NATURAL GAS
6 PROVIDER'S TOTAL ENERGY WASTE REDUCTION PROGRAMS. CHARGES SHALL BE
7 APPLIED TO DISTRIBUTION CUSTOMERS REGARDLESS OF THE SOURCE OF THEIR
8 NATURAL GAS SUPPLY.

9 (5) THE COMMISSION SHALL AUTHORIZE A NATURAL GAS PROVIDER THAT
10 SPENDS A MINIMUM OF 0.5% OF TOTAL NATURAL GAS RETAIL SALES
11 REVENUES, INCLUDING NATURAL GAS COMMODITY COSTS, IN A YEAR ON
12 COMMISSION-APPROVED ENERGY WASTE REDUCTION PROGRAMS TO IMPLEMENT A
13 SYMMETRICAL REVENUE DECOUPLING TRUE-UP MECHANISM THAT ADJUSTS FOR
14 SALES THAT ARE ABOVE OR BELOW THE PROJECTED LEVELS THAT WERE USED
15 TO DETERMINE THE REVENUE REQUIREMENT AUTHORIZED IN THE NATURAL GAS
16 PROVIDER'S MOST RECENT RATE CASE. IN DETERMINING THE SYMMETRICAL
17 REVENUE DECOUPLING TRUE-UP MECHANISM UTILIZED FOR EACH NATURAL GAS
18 PROVIDER, THE COMMISSION SHALL GIVE DEFERENCE TO THE PROPOSED
19 MECHANISM SUBMITTED BY THE NATURAL GAS PROVIDER. THE COMMISSION MAY
20 APPROVE AN ALTERNATIVE MECHANISM IF THE COMMISSION DETERMINES THAT
21 THE ALTERNATIVE MECHANISM IS REASONABLE AND PRUDENT. THE COMMISSION
22 SHALL AUTHORIZE THE NATURAL GAS PROVIDER TO DECOUPLE RATES
23 REGARDLESS OF WHETHER THE NATURAL GAS PROVIDER'S ENERGY WASTE
24 REDUCTION PROGRAMS ARE ADMINISTERED BY THE PROVIDER OR AN
25 INDEPENDENT ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR UNDER
26 SECTION 91A.

27 (6) THIS SECTION TAKES EFFECT JANUARY 1, 2021.

1 Sec. 91. (1) Except for section 89(6), sections 71 to 89 do
 2 not apply to a provider that ~~pays the following percentage~~ **EACH**
 3 **YEAR PAYS 2.0%** of total utility sales revenues **FOR THE SECOND YEAR**
 4 **PRECEDING**, including electricity or natural gas commodity costs,
 5 ~~each year to an independent energy optimization~~ **WASTE REDUCTION**
 6 program administrator selected by the commission. +

7 ~~—— (a) In 2009, 0.75% of total retail sales revenues for 2007.~~

8 ~~—— (b) In 2010, 1.0% of total retail sales revenues for 2008.~~

9 ~~—— (c) In 2011, 1.5% of total retail sales revenues for 2009.~~

10 ~~—— (d) In 2012 and each year thereafter, 2.0% of total retail~~
 11 ~~sales revenues for the 2 years preceding.~~

12 (2) An alternative compliance payment received from a provider
 13 by the energy ~~optimization~~ **WASTE REDUCTION** program administrator
 14 under subsection (1) shall be used to administer energy efficiency
 15 programs for the provider. ~~Money unspent in a year shall be carried~~
 16 ~~forward to be spent in the subsequent year.~~

17 (3) The commission shall allow a provider to recover an
 18 alternative compliance payment under subsection (1). This cost
 19 shall be recovered from ~~residential~~ customers by volumetric charges
 20 ~~, from all other metered customers by per meter charges, and from~~
 21 ~~unmetered customers by an appropriate charge, applied to~~ **OR FIXED,**
 22 **PER-METER CHARGES. FIXED, PER-METER CHARGES UNDER THIS SUBSECTION**
 23 **MAY VARY BY RATE CLASS. CHARGES UNDER THIS SUBSECTION MAY BE**
 24 **ITEMIZED ON** utility bills.

25 (4) ~~An~~ **A PROVIDER'S** alternative compliance payment under
 26 subsection (1) shall only be used to fund energy ~~optimization~~ **WASTE**
 27 **REDUCTION** programs for that provider's customers. To the extent

1 feasible, charges collected from a particular customer rate class
2 and paid to the energy ~~optimization~~ **WASTE REDUCTION** program
3 administrator under subsection (1) shall be devoted to energy
4 ~~optimization~~ **WASTE REDUCTION** programs and services for that rate
5 class.

6 (5) Money paid to the energy ~~optimization~~ **WASTE REDUCTION**
7 program administrator under subsection (1) and not spent by the
8 administrator that year shall remain available for expenditure the
9 following year, subject to the requirements of subsection (4).

10 (6) The commission shall select a qualified nonprofit
11 organization to serve as an energy ~~optimization~~ **WASTE REDUCTION**
12 program administrator under this section, through a competitive bid
13 process.

14 (7) The commission shall arrange for a biennial independent
15 audit of the energy ~~optimization~~ **WASTE REDUCTION** program
16 administrator.

17 (8) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.**

18 **SEC. 91A. (1) EXCEPT FOR SECTION 89A(6), SECTIONS 72 TO 89A DO**
19 **NOT APPLY TO A NATURAL GAS PROVIDER THAT EACH YEAR PAYS 2.0% OF**
20 **TOTAL UTILITY SALES REVENUES, INCLUDING NATURAL GAS COMMODITY**
21 **COSTS, FOR THE SECOND YEAR PRECEDING TO AN INDEPENDENT ENERGY WASTE**
22 **REDUCTION PROGRAM ADMINISTRATOR SELECTED BY THE COMMISSION.**

23 (2) **AN ALTERNATIVE COMPLIANCE PAYMENT RECEIVED FROM A NATURAL**
24 **GAS PROVIDER BY THE ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR**
25 **UNDER SUBSECTION (1) SHALL BE USED TO ADMINISTER ENERGY WASTE**
26 **REDUCTION PROGRAMS FOR THE PROVIDER.**

27 (3) **THE COMMISSION SHALL ALLOW A NATURAL GAS PROVIDER TO**

1 RECOVER AN ALTERNATIVE COMPLIANCE PAYMENT UNDER SUBSECTION (1).
2 THIS COST SHALL BE RECOVERED FROM CUSTOMERS BY VOLUMETRIC CHARGES
3 OR FIXED, PER-METER CHARGES. FIXED, PER-METER CHARGES UNDER THIS
4 SUBSECTION MAY VARY BY RATE CLASS. CHARGES UNDER THIS SUBSECTION
5 SHALL NOT BE ITEMIZED ON UTILITY BILLS.

6 (4) AN ALTERNATIVE COMPLIANCE PAYMENT UNDER SUBSECTION (1)
7 SHALL ONLY BE USED TO FUND ENERGY WASTE REDUCTION PROGRAMS FOR THAT
8 PROVIDER'S CUSTOMERS. TO THE EXTENT FEASIBLE, CHARGES COLLECTED
9 FROM A PARTICULAR CUSTOMER RATE CLASS AND PAID TO THE ENERGY WASTE
10 REDUCTION PROGRAM ADMINISTRATOR UNDER SUBSECTION (1) SHALL BE
11 DEVOTED TO ENERGY WASTE REDUCTION PROGRAMS AND SERVICES FOR THAT
12 RATE CLASS.

13 (5) MONEY PAID TO THE ENERGY WASTE REDUCTION PROGRAM
14 ADMINISTRATOR UNDER SUBSECTION (1) AND NOT SPENT BY THE
15 ADMINISTRATOR THAT YEAR SHALL REMAIN AVAILABLE FOR EXPENDITURE THE
16 FOLLOWING YEAR, SUBJECT TO SUBSECTION (4).

17 (6) THE COMMISSION SHALL SELECT A QUALIFIED NONPROFIT
18 ORGANIZATION TO SERVE AS AN ENERGY WASTE REDUCTION PROGRAM
19 ADMINISTRATOR UNDER THIS SECTION THROUGH A COMPETITIVE BID PROCESS.

20 (7) THE COMMISSION SHALL ARRANGE FOR A BIENNIAL INDEPENDENT
21 AUDIT OF THE ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR.

22 (8) THIS SECTION TAKES EFFECT JANUARY 1, 2021.

23 Sec. 93. (1) An eligible electric customer is exempt from
24 charges the customer would otherwise incur as an electric customer
25 under section 89 or 91 if the customer files with its electric
26 provider and implements a self-directed energy ~~optimization~~ **WASTE**
27 **REDUCTION** plan as provided in this section.

1 (2) Subject to subsection (3), an electric customer is not
2 eligible under subsection (1) unless it is a commercial or
3 industrial electric customer and ~~meets all of the following~~
4 ~~requirements:~~

5 ~~—— (a) In 2009 or 2010, the customer must have had an annual peak~~
6 ~~demand in the preceding year of at least 2 megawatts at each site~~
7 ~~to be covered by the self directed plan or 10 megawatts in the~~
8 ~~aggregate at all sites to be covered by the plan.~~

9 ~~—— (b) In 2011, 2012, or 2013, the customer or customers must~~
10 ~~have had an annual peak demand in the preceding year of at least 1~~
11 ~~megawatt at each site to be covered by the self directed plan or 5~~
12 ~~megawatts in the aggregate at all sites to be covered by the plan.~~

13 ~~—— (c) In 2014 or any year thereafter, the customer or customers~~
14 ~~must have had an annual peak demand in the preceding year of at~~
15 ~~least 1 megawatt in the aggregate at all sites to be covered by the~~
16 ~~self-directed plan.~~

17 (3) The eligibility requirements of subsection (2) do not
18 apply to a commercial or industrial customer that installs or
19 modifies an electric energy efficiency improvement under a property
20 assessed clean energy program pursuant to the property assessed
21 clean energy act, **2010 PA 270, MCL 460.931 TO 460.949.**

22 (4) The commission shall by order establish the rates, terms,
23 and conditions of service for customers related to this subpart.

24 (5) The commission shall by order do all of the following:

25 (a) Require a customer to utilize the services of an energy
26 ~~optimization~~ **WASTE REDUCTION** service company to develop and
27 implement a self-directed plan. This subdivision does not apply to

1 a customer that had an annual peak demand in the preceding year of
2 at least 2 megawatts at each site to be covered by the self-
3 directed plan or 10 megawatts in the aggregate at all sites to be
4 covered by the self-directed plan.

5 (b) Provide a mechanism to recover from customers under
6 subdivision (a) the costs for provider level review and evaluation.

7 (c) Provide a mechanism to cover the costs of the ~~low-income~~
8 **LOW-INCOME** energy ~~optimization~~-**WASTE REDUCTION** program under
9 section 89.

10 (6) All of the following apply to a self-directed energy
11 ~~optimization~~-**WASTE REDUCTION** plan under subsection (1):

12 (a) The self-directed plan shall be a multiyear plan for an
13 ongoing energy ~~optimization~~-**WASTE REDUCTION** program.

14 (b) The self-directed plan shall provide for aggregate energy
15 savings that each year meet or exceed the energy ~~optimization~~-**WASTE**
16 **REDUCTION** standards based on the electricity purchases in the
17 previous year for the site or sites covered by the self-directed
18 plan.

19 (c) Under the self-directed plan, energy ~~optimization~~-**WASTE**
20 **REDUCTION** shall be calculated based on annual electricity usage.
21 Annual electricity usage shall be normalized so that none of the
22 following are included in the calculation of the percentage of
23 incremental energy savings:

24 (i) Changes in electricity usage because of changes in
25 business activity levels not attributable to energy
26 ~~optimization~~-**WASTE REDUCTION**.

27 (ii) Changes in electricity usage because of the installation,

1 operation, or testing of pollution control equipment.

2 (d) The self-directed plan shall specify whether electricity
3 usage will be weather-normalized or based on the average number of
4 megawatt hours of electricity sold by the electric provider
5 annually during the previous 3 years to retail customers in this
6 state. Once the self-directed plan is submitted to the provider,
7 this option shall not be changed.

8 (e) The self-directed plan shall outline how the customer
9 intends to achieve the incremental energy savings specified in the
10 self-directed plan.

11 (7) A self-directed energy ~~optimization~~ **WASTE REDUCTION** plan
12 shall be incorporated into the relevant electric provider's energy
13 ~~optimization~~ **WASTE REDUCTION** plan. The self-directed plan and
14 information submitted by the customer under subsection (10) are
15 confidential and exempt from disclosure under the freedom of
16 information act, 1976 PA 442, MCL 15.231 to 15.246. Projected
17 energy savings from measures implemented under a self-directed plan
18 shall be attributed to the relevant provider's energy ~~optimization~~
19 **WASTE REDUCTION** programs for the purposes of determining annual
20 incremental energy savings achieved by the provider under section
21 77 or 81, as applicable.

22 (8) Once a customer begins to implement a self-directed plan
23 at a site covered by the self-directed plan, that site is exempt
24 from energy ~~optimization~~ **WASTE REDUCTION** program charges under
25 section 89 or 91 and is not eligible to participate in the relevant
26 electric provider's energy ~~optimization~~ **WASTE REDUCTION** programs.

27 (9) A customer implementing a self-directed energy

1 ~~optimization~~ **WASTE REDUCTION** plan under this section shall annually
2 submit to the customer's electric provider a brief report
3 documenting the energy efficiency measures taken under the self-
4 directed plan during the previous year, and the corresponding
5 energy savings that will result. The report shall provide
6 sufficient information for the provider and the commission to
7 monitor progress toward the goals in the self-directed plan and to
8 develop reliable estimates of the energy savings that are being
9 achieved from self-directed plans. The customer report shall
10 indicate the level of incremental energy savings achieved for the
11 year covered by the report and whether that level of incremental
12 energy savings meets the goal set forth in the customer's self-
13 directed plan. If a customer submitting a report under this
14 subsection wishes to amend its self-directed plan, the customer
15 shall submit with the report an amended self-directed plan. A
16 report under this subsection shall be accompanied by an affidavit
17 from a knowledgeable official of the customer that the information
18 in the report is true and correct to the best of the official's
19 knowledge and belief. If the customer has retained an independent
20 energy ~~optimization~~ **WASTE REDUCTION** service company, the
21 requirements of this subsection shall be met by the energy
22 ~~optimization~~ **WASTE REDUCTION** service company.

23 (10) An electric provider shall provide an annual report to
24 the commission that identifies customers implementing self-directed
25 energy ~~optimization~~ **WASTE REDUCTION** plans and summarizes the
26 results achieved cumulatively under those self-directed plans. The
27 commission may request additional information from the electric

1 provider. If the commission has sufficient reason to believe the
2 information is inaccurate or incomplete, it may request additional
3 information from the customer to ensure accuracy of the report.

4 (11) If the commission determines after a contested case
5 hearing that the minimum energy ~~optimization~~ **WASTE REDUCTION** goals
6 under subsection (6) (b) have not been achieved at the sites covered
7 by a self-directed plan, in aggregate, the commission shall order
8 the customer or customers collectively to pay to this state an
9 amount calculated as follows:

10 (a) Determine the proportion of the shortfall in achieving the
11 minimum energy ~~optimization~~ **WASTE REDUCTION** goals under subsection
12 (6) (b).

13 (b) Multiply the figure under subdivision (a) by the energy
14 ~~optimization~~ **WASTE REDUCTION** charges from which the customer or
15 customers collectively were exempt under subsection (1).

16 (c) Multiply the product under subdivision (b) by a number not
17 less than 1 or greater than 2, as determined by the commission
18 based on the reasons for failure to meet the minimum energy
19 ~~optimization~~ **WASTE REDUCTION** goals.

20 (12) If a customer has submitted a self-directed plan to an
21 electric provider, the customer, the customer's energy ~~optimization~~
22 **WASTE REDUCTION** service company, if applicable, or the electric
23 provider shall provide a copy of the self-directed plan to the
24 commission upon request.

25 (13) By September 1, 2010, following a public hearing, the
26 commission shall establish an approval process for energy
27 ~~optimization~~ **WASTE REDUCTION** service companies. The approval

1 process shall ensure that energy ~~optimization~~ **WASTE REDUCTION**
 2 service companies have the expertise, resources, and business
 3 practices to reliably provide energy ~~optimization~~ **WASTE REDUCTION**
 4 services that meet the requirements of this section. The commission
 5 may adopt by reference the past or current standards of a national
 6 or regional certification or licensing program for energy
 7 ~~optimization~~ **WASTE REDUCTION** service companies. However, the
 8 approval process shall also provide an opportunity for energy
 9 ~~optimization~~ **WASTE REDUCTION** service companies that are not
 10 recognized by such a program to be approved by posting a bond in an
 11 amount determined by the commission and meeting any other
 12 requirements adopted by the commission for the purposes of this
 13 subsection. The approval process for energy ~~optimization~~ **WASTE**
 14 **REDUCTION** service companies shall require adherence to a code of
 15 conduct governing the relationship between energy ~~optimization~~
 16 **WASTE REDUCTION** service companies and electric providers.

17 (14) The department of ~~energy, labor, and economic growth~~
 18 **LICENSING AND REGULATORY AFFAIRS** shall maintain on the department's
 19 website a list of energy ~~optimization~~ **WASTE REDUCTION** service
 20 companies approved under subsection (13).

21 (15) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.**

22 Sec. 95. (1) ~~The~~ **SUBJECT TO SUBSECTION (2), THE** commission
 23 shall do all of the following:

24 (a) Promote load management in appropriate circumstances,
 25 **INCLUDING EXPANSION OF EXISTING AND ESTABLISHMENT OF NEW LOAD**
 26 **MANAGEMENT PROGRAMS IN WHICH AN ELECTRIC PROVIDER MAY REMOTELY SHUT**
 27 **DOWN AIR CONDITIONING OR OTHER ENERGY INTENSIVE SYSTEMS OF**

1 PARTICIPATING CUSTOMERS, DEMAND RESPONSE PROGRAMS THAT USE TIME OF
2 DAY PRICING AND DYNAMIC RATE PRICING, AND SIMILAR PROGRAMS, FOR
3 UTILITY CUSTOMERS THAT HAVE ADVANCED METERING INFRASTRUCTURE.
4 ELECTRIC PROVIDER PARTICIPATION AND CUSTOMER ENROLLMENT IN SUCH
5 PROGRAMS ARE VOLUNTARY. HOWEVER, ELECTRIC PROVIDERS WHOSE RATES
6 INCLUDE THE COST OF ADVANCED METERING INFRASTRUCTURE SHALL OFFER
7 COMMISSION-APPROVED PROGRAMS. THE PROGRAMS MAY PROVIDE INCENTIVES
8 FOR CUSTOMER PARTICIPATION AND SHALL INCLUDE CUSTOMER PROTECTION
9 PROVISIONS AS REQUIRED BY THE COMMISSION. AN ELECTRIC UTILITY SHALL
10 NOT IMPOSE ANY FEE OR DISINCENTIVE ON ANY CUSTOMER FOR NOT
11 PARTICIPATING IN A PROGRAM AND SHALL ALLOW A CUSTOMER TO FREELY
12 CHOOSE BETWEEN DIFFERENT TYPES OF PROGRAMS WITHOUT BEING LIMITED TO
13 BUNDLED PARTICIPATION. A CUSTOMER MAY DISCONTINUE PARTICIPATION IN
14 A PROGRAM AT ANY TIME WITHOUT PENALTY.

15 (b) Actively pursue increasing public awareness of load
16 management techniques.

17 (c) Engage in regional load management efforts to reduce the
18 annual demand for energy whenever possible.

19 (d) Work with residential, commercial, and industrial
20 customers to reduce annual demand and conserve energy through load
21 management techniques and other activities it considers
22 appropriate. ~~The commission shall file a report with the~~
23 ~~legislature by December 31, 2010 on the effort to reduce peak~~
24 ~~demand. The report shall also include any recommendations for~~
25 ~~legislative action concerning load management that the commission~~
26 ~~considers necessary.~~

27 (2) SUBSECTION (1) SHALL NOT BE CONSTRUED TO PREVENT AN

1 ELECTRIC UTILITY FROM DOING ANY OF THE FOLLOWING:

2 (A) RECOVERING THE FULL COST ASSOCIATED WITH PROVIDING
3 ELECTRIC SERVICE AND LOAD MANAGEMENT PROGRAMS.

4 (B) INSTALLING METERING AND RETRIEVING METERING DATA NECESSARY
5 TO PROPERLY, ACCURATELY, AND EFFICIENTLY BILL FOR THE ELECTRIC
6 UTILITY'S SERVICES WITHOUT MANUAL INTERVENTION OR MANUAL
7 CALCULATION.

8 (3) ~~(2)~~—The commission may allow a provider whose rates are
9 regulated by the commission to recover costs for load management
10 undertaken pursuant to an energy optimization plan through base
11 rates as part of a proceeding under section 6 of 1939 PA 3, MCL
12 460.6, if the costs are reasonable and prudent and meet the utility
13 systems resource cost test.

14 ~~—(3) The commission shall do all of the following:~~

15 ~~—(a) Promote energy efficiency and energy conservation.~~

16 ~~—(b) Actively pursue increasing public awareness of energy
17 conservation and energy efficiency.~~

18 ~~—(c) Actively engage in energy conservation and energy
19 efficiency efforts with providers.~~

20 ~~—(d) Engage in regional efforts to reduce demand for energy
21 through energy conservation and energy efficiency.~~

22 ~~—(e) By November 30, 2009, and each year thereafter, submit to
23 the standing committees of the senate and house of representatives
24 with primary responsibility for energy and environmental issues a
25 report on the effort to implement energy conservation and energy
26 efficiency programs or measures. The report may include any
27 recommendations of the commission for energy conservation~~

1 ~~legislation.~~

2 (4) This subpart does not limit the authority of the
3 commission, following an integrated resource plan proceeding and as
4 part of a rate-making process, to allow a provider whose rates are
5 regulated by the commission to recover for additional prudent
6 energy efficiency and energy conservation measures not included in
7 the provider's energy ~~optimization~~-**WASTE REDUCTION** plan if the
8 provider has met the requirements of the energy ~~optimization~~-**WASTE**
9 **REDUCTION** program.

10 Sec. 97. (1) By a time determined by the commission, each
11 provider shall submit to the commission an annual report that
12 provides information relating to the actions taken by the provider
13 to comply with the energy ~~optimization~~-**WASTE REDUCTION** standards.
14 By that same time, a municipally-owned electric utility shall
15 submit a copy of the report to the governing body of the
16 municipally-owned electric utility, and a cooperative electric
17 utility shall submit a copy of the report to its board of
18 directors.

19 (2) An annual report under subsection (1) shall include all of
20 the following information:

21 (a) The number of energy ~~optimization~~-**WASTE REDUCTION** credits
22 that the provider generated during the reporting period.

23 (b) Expenditures made in the past year and anticipated future
24 expenditures to comply with this subpart.

25 (c) Any other information that the commission determines
26 necessary.

27 (3) Concurrent with the submission of each report under

1 subsection (1), a municipally-owned electric utility shall submit a
2 summary of the report to its customers in their bills with a bill
3 insert and to its governing body. Concurrent with the submission of
4 each report under subsection (1), a cooperative electric utility
5 shall submit a summary of the report to its members in a periodical
6 issued by an association of rural electric cooperatives and to its
7 board of directors. A municipally-owned electric utility or
8 cooperative electric provider shall make a copy of the report
9 available at its office and shall post a copy of the report on its
10 website. A summary under this section shall indicate that a copy of
11 the report is available at the office or website.

12 ~~—— (4) Not later than 1 year after the effective date of this~~
13 ~~act, the commission shall submit a report on the potential rate~~
14 ~~impacts on all classes of customers if the electric providers whose~~
15 ~~rates are regulated by the commission decouple rates. The report~~
16 ~~shall be submitted to the standing committees of the senate and~~
17 ~~house of representatives with primary responsibility for energy and~~
18 ~~environmental issues. The commission's report shall review whether~~
19 ~~decoupling would be cost effective and would reduce the overall~~
20 ~~consumption of fossil fuels in this state.~~

21 ~~—— (5) By October 1, 2010, the commission shall submit to the~~
22 ~~committees described in subsection (4) any recommendations for~~
23 ~~legislative action to increase energy conservation and energy~~
24 ~~efficiency based on reports under subsection (1), the energy~~
25 ~~optimization plans approved under section 89, and the commission's~~
26 ~~own investigation. By March 1, 2013, the commission shall submit to~~
27 ~~those committees a report on the progress of electric providers in~~

1 ~~achieving reductions in energy use. The commission may use an~~
2 ~~independent evaluator to review the submissions by electric~~
3 ~~providers.~~

4 ~~(4) (6) By February 15, 2011 and each year thereafter and by~~
5 ~~September 30, 2015, the~~ **THE** commission shall submit to the **STANDING**
6 ~~committees described in subsection (4) a~~ **OF THE SENATE AND HOUSE OF**
7 **REPRESENTATIVES WITH PRIMARY RESPONSIBILITY FOR ENERGY ISSUES AN**
8 **ANNUAL** report that evaluates and determines whether this subpart
9 ~~and subpart A have each~~ **HAS** been cost-effective and makes
10 recommendations to the legislature. The report ~~shall~~ **MAY** be
11 combined with any concurrent report by the commission under section
12 ~~51.~~ **THE ANNUAL REPORT UNDER SECTION 5A OF 1939 PA 3, MCL 460.5A.**

13 ~~—— (7) The report required by September 30, 2015 under subsection~~
14 ~~(6) shall also review the opportunities for additional cost-~~
15 ~~effective energy optimization programs and make any recommendations~~
16 ~~the commission may have for legislation providing for the~~
17 ~~continuation, expansion, or reduction of energy optimization~~
18 ~~standards. That report shall also include the commission's~~
19 ~~determinations of all of the following:~~

20 ~~—— (a) The percentage of total energy savings required by the~~
21 ~~energy optimization standards that have actually been achieved by~~
22 ~~each electric provider and by all electric providers cumulatively.~~

23 ~~—— (b) The percentage of total energy savings required by the~~
24 ~~energy optimization standards that have actually been achieved by~~
25 ~~each natural gas provider and by all natural gas providers~~
26 ~~cumulatively.~~

27 ~~—— (c) For each provider, whether that provider's program under~~

1 ~~this subpart has been cost effective.~~

2 (5) ~~(8)~~ If the commission determines ~~in its report required by~~
3 ~~September 30, 2015 under subsection (6) or determines subsequently~~
4 that a provider's energy ~~optimization~~ **WASTE REDUCTION** program under
5 this subpart has not been cost-effective, the provider's program is
6 suspended beginning 180 days after the date of the ~~report or~~
7 ~~subsequent~~ determination. If a provider's energy ~~optimization~~ **WASTE**
8 **REDUCTION** program is suspended under this subsection, both of the
9 following apply:

10 (a) The provider shall maintain cumulative incremental energy
11 savings in megawatt hours or decatherms or equivalent MCFs in
12 subsequent years at the level actually achieved during the year
13 preceding the year in which the commission's determination is made.

14 (b) The provider shall not impose energy ~~optimization~~ **WASTE**
15 **REDUCTION** charges in subsequent years except to the extent
16 necessary to recover unrecovered energy ~~optimization~~ **WASTE**
17 **REDUCTION** expenses incurred under this subpart before suspension of
18 the provider's program.

19 (6) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.**

20 **SEC. 98. (1) BY A TIME DETERMINED BY THE COMMISSION, EACH**
21 **NATURAL GAS PROVIDER SHALL SUBMIT TO THE COMMISSION AN ANNUAL**
22 **REPORT THAT PROVIDES INFORMATION RELATING TO THE ACTIONS TAKEN BY**
23 **THE PROVIDER TO COMPLY WITH THE ENERGY WASTE REDUCTION STANDARDS.**

24 (2) **AN ANNUAL REPORT UNDER SUBSECTION (1) SHALL INCLUDE ALL OF**
25 **THE FOLLOWING INFORMATION:**

26 (A) **THE AMOUNT OF ENERGY WASTE REDUCTION ACHIEVED DURING THE**
27 **REPORTING PERIOD.**

1 (B) EXPENDITURES MADE IN THE PAST YEAR AND ANTICIPATED FUTURE
2 EXPENDITURES TO COMPLY WITH THIS SUBPART.

3 (C) ANY OTHER INFORMATION THAT THE COMMISSION DETERMINES
4 NECESSARY.

5 (3) THE COMMISSION SHALL SUBMIT TO THE STANDING COMMITTEES OF
6 THE SENATE AND HOUSE OF REPRESENTATIVES WITH PRIMARY RESPONSIBILITY
7 FOR ENERGY AND ENVIRONMENTAL ISSUES A REPORT THAT EVALUATES AND
8 DETERMINES WHETHER THIS SUBPART HAS BEEN COST-EFFECTIVE AND MAKES
9 RECOMMENDATIONS TO THE LEGISLATURE. THE REPORT SHALL BE COMBINED
10 WITH THE ANNUAL REPORT UNDER SECTION 5A OF 1939 PA 3, MCL 460.5A.

11 (4) THIS SECTION TAKES EFFECT JANUARY 1, 2021.

12 SEC. 99. (1) THE ATTORNEY GENERAL OR ANY CUSTOMER OF A
13 MUNICIPALLY OWNED ELECTRIC UTILITY OR A COOPERATIVE ELECTRIC
14 UTILITY THAT IS MEMBER-REGULATED UNDER THE ELECTRIC COOPERATIVE
15 MEMBER REGULATION ACT, 2008 PA 167, MCL 460.31 TO 460.39, MAY
16 COMMENCE A CIVIL ACTION FOR INJUNCTIVE RELIEF AGAINST THAT
17 MUNICIPALLY OWNED ELECTRIC UTILITY OR COOPERATIVE ELECTRIC UTILITY
18 IF THE MUNICIPALLY OWNED ELECTRIC UTILITY OR COOPERATIVE ELECTRIC
19 UTILITY FAILS TO MEET THE APPLICABLE REQUIREMENTS OF THIS SUBPART
20 OR AN ORDER ISSUED OR RULE PROMULGATED UNDER THIS SUBPART. THE
21 ATTORNEY GENERAL OR CUSTOMER SHALL COMMENCE AN ACTION UNDER THIS
22 SUBSECTION IN THE CIRCUIT COURT FOR THE CIRCUIT IN WHICH THE
23 PRINCIPAL OFFICE OF THE MUNICIPALLY OWNED ELECTRIC UTILITY OR
24 COOPERATIVE ELECTRIC UTILITY IS LOCATED. THE ATTORNEY GENERAL OR
25 CUSTOMER SHALL NOT FILE AN ACTION UNDER THIS SUBSECTION UNLESS THE
26 ATTORNEY GENERAL OR CUSTOMER HAS GIVEN THE MUNICIPALLY OWNED
27 ELECTRIC UTILITY OR COOPERATIVE ELECTRIC UTILITY AT LEAST 60 DAYS'

1 WRITTEN NOTICE OF THE INTENT TO SUE, THE BASIS FOR THE SUIT, AND
 2 THE RELIEF SOUGHT. WITHIN 30 DAYS AFTER THE MUNICIPALLY OWNED
 3 ELECTRIC UTILITY OR COOPERATIVE ELECTRIC UTILITY RECEIVES WRITTEN
 4 NOTICE OF THE INTENT TO SUE, THE MUNICIPALLY OWNED ELECTRIC UTILITY
 5 OR COOPERATIVE ELECTRIC UTILITY AND THE ATTORNEY GENERAL OR
 6 CUSTOMER SHALL MEET AND MAKE A GOOD-FAITH ATTEMPT TO DETERMINE IF
 7 THERE IS A CREDIBLE BASIS FOR THE ACTION. THE MUNICIPALLY OWNED
 8 ELECTRIC UTILITY OR COOPERATIVE ELECTRIC UTILITY SHALL TAKE ALL
 9 REASONABLE AND PRUDENT STEPS NECESSARY TO COMPLY WITH THE
 10 APPLICABLE REQUIREMENTS OF THIS SUBPART OR AN ORDER ISSUED OR RULE
 11 PROMULGATED UNDER THIS SUBPART WITHIN 90 DAYS AFTER THE MEETING IF
 12 THERE IS A CREDIBLE BASIS FOR THE ACTION. IF THE PARTIES DO NOT
 13 AGREE AS TO WHETHER THERE IS A CREDIBLE BASIS FOR THE ACTION, THE
 14 ATTORNEY GENERAL OR CUSTOMER MAY PROCEED TO FILE THE SUIT.

15 (2) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2021.

16 SUBPART ~~C~~-D. MISCELLANEOUS

17 Sec. 113. (1) Notwithstanding any other provision of this
 18 part, ~~electricity or~~ natural gas used in the installation,
 19 operation, or testing of any pollution control equipment is exempt
 20 from the requirements of, and calculations of compliance required
 21 under, this part.

22 (2) THIS SECTION, AS AMENDED BY THE ACT THAT ADDED THIS
 23 SUBSECTION, TAKES EFFECT JANUARY 1, 2021.

24 PART 5.

25 ~~NET-METERING~~DISTRIBUTED GENERATION

26 Sec. 173. (1) The commission shall establish a ~~statewide net~~
 27 ~~metering~~-DISTRIBUTED GENERATION program by order issued not later

1 than ~~180~~ 90 days after the effective date of this act. No later
 2 than ~~180~~ days after the effective date of this act, the commission
 3 shall promulgate rules regarding any time limits on the submission
 4 of net metering applications or inspections of net metering
 5 equipment and any other matters the commission considers necessary
 6 to implement this part. **THE 2016 ACT THAT AMENDED THIS SECTION. THE**
 7 **COMMISSION MAY PROMULGATE RULES THE COMMISSION CONSIDERS NECESSARY**
 8 **TO IMPLEMENT THIS PROGRAM.** Any rules adopted regarding time limits
 9 for approval of parallel operation shall recognize reliability and
 10 safety complications including those arising from equipment
 11 saturation, use of multiple technologies, and proximity to
 12 synchronous motor loads. The program shall apply to all electric
 13 utilities **WHOSE RATES ARE REGULATED BY THE COMMISSION** and
 14 alternative electric suppliers in this state.

15 (2) Except as otherwise provided under this part, ~~customers~~ **AN**
 16 **ELECTRIC CUSTOMER** of any class ~~are~~ **IS** eligible to interconnect **AN**
 17 eligible electric ~~generators~~ **GENERATOR** with the customer's local
 18 electric utility and operate the ~~generators~~ **ELIGIBLE ELECTRIC**
 19 **GENERATOR** in parallel with the distribution system. The program
 20 shall be designed for a period of not less than 10 years and limit
 21 each customer to generation capacity designed to meet ~~only the~~
 22 ~~customer's electric needs.~~ **UP TO 100% OF THE CUSTOMER'S ELECTRICITY**
 23 **CONSUMPTION FOR THE PREVIOUS 12 MONTHS.** The commission may waive
 24 the application, interconnection, and installation requirements of
 25 this part for customers participating in the net metering program
 26 under the commission's March 29, 2005 order in case no. U-14346.

27 (3) ~~(2)~~ An electric utility or alternative electric supplier

1 is not required to allow for ~~net metering~~ **DISTRIBUTED GENERATION**
2 that is greater than 1% of its **AVERAGE** in-state peak load for the
3 preceding 5 calendar ~~year~~. **YEARS**. The **ELECTRIC** utility or
4 **ALTERNATIVE ELECTRIC** supplier shall notify the commission if its
5 ~~net metering~~ **DISTRIBUTED GENERATION** program reaches the 1%
6 ~~requirement~~ **LIMIT** under this subsection. The 1% limit under this
7 subsection shall be allocated as follows:

8 (a) No more than 0.5% for customers with a ~~system~~ **AN ELIGIBLE**
9 **ELECTRIC GENERATOR** capable of generating 20 kilowatts or less.

10 (b) No more than 0.25% for customers with a ~~system~~ **AN ELIGIBLE**
11 **ELECTRIC GENERATOR** capable of generating more than 20 kilowatts but
12 not more than 150 kilowatts.

13 (c) No more than 0.25% for customers with a ~~system~~ **METHANE**
14 **DIGESTER** capable of generating more than 150 kilowatts.

15 (4) ~~(3)~~ Selection of customers for participation in the ~~net~~
16 ~~metering~~ **DISTRIBUTED GENERATION** program shall be based on the order
17 in which the applications for participation in the ~~net metering~~
18 program are received by the electric utility or alternative
19 electric supplier.

20 (5) ~~(4)~~ An electric utility or alternative electric supplier
21 shall not **DISCONTINUE OR** refuse to provide ~~or discontinue~~ electric
22 service to a customer solely ~~for the reason that~~ **BECAUSE** the
23 customer participates in the ~~net metering~~ **DISTRIBUTED GENERATION**
24 program.

25 (6) ~~(5)~~ The **DISTRIBUTED GENERATION** program created under
26 subsection (1) shall include all of the following:

27 (a) Statewide uniform interconnection requirements for all

1 eligible electric generators. The interconnection requirements
2 shall be designed to protect electric utility workers and equipment
3 and the general public.

4 (b) ~~Net metering~~ **DISTRIBUTED GENERATION** equipment and its
5 installation ~~must~~ **SHALL** meet all current local and state electric
6 and construction code requirements. Any equipment that is certified
7 by a nationally recognized testing laboratory to IEEE 1547.1
8 testing standards and in compliance with UL 1741 scope 1.1A,
9 effective May 7, 2007, and installed in compliance with this part
10 is considered to be ~~eligible equipment~~. **COMPLIANT**. Within the time
11 provided by the commission in rules promulgated under subsection
12 (1) and consistent with good utility practice, **AND THE** protection
13 of electric utility workers, ~~protection of electric utility~~
14 equipment, and ~~protection of the general public~~, an electric
15 utility may study, confirm, and ensure that an eligible electric
16 generator installation at the customer's site meets the IEEE 1547
17 anti-islanding requirements ~~. Utility testing and approval of the~~
18 ~~interconnection and execution of a parallel operating agreement~~ **OR**
19 **ANY APPLICABLE SUCCESSOR ANTI-ISLANDING REQUIREMENTS DETERMINED BY**
20 **THE COMMISSION TO BE REASONABLE AND CONSISTENT WITH THE PURPOSES OF**
21 **THIS SUBDIVISION. IF NECESSARY TO PROMOTE RELIABILITY OR SAFETY,**
22 **THE COMMISSION MAY PROMULGATE RULES THAT REQUIRE THE USE OF**
23 **INVERTERS THAT PERFORM SPECIFIC AUTOMATED GRID-BALANCING FUNCTIONS**
24 **TO INTEGRATE DISTRIBUTED GENERATION ONTO THE ELECTRIC GRID.**
25 **INVERTERS THAT INTERCONNECT DISTRIBUTED GENERATION RESOURCES MAY BE**
26 **OWNED AND OPERATED BY ELECTRIC UTILITIES. BOTH OF THE FOLLOWING**
27 must be completed ~~prior to~~ **BEFORE** the equipment ~~operating~~ **IS**

1 OPERATED in parallel with the distribution system of the utility: -

2 (i) UTILITY TESTING AND APPROVAL OF THE INTERCONNECTION,
3 INCLUDING ALL METERING.

4 (ii) EXECUTION OF A PARALLEL OPERATING AGREEMENT.

5 (c) A uniform application form and process to be used by all
6 electric utilities and alternative electric suppliers in this
7 state. Customers who are served by an alternative electric supplier
8 shall submit a copy of the application to the electric utility for
9 the customer's service area.

10 (d) ~~Net metering~~ **DISTRIBUTED GENERATION** customers with a
11 system capable of generating 20 kilowatts or less qualify for true
12 net metering.

13 (e) ~~Net metering~~ **DISTRIBUTED GENERATION** customers with a
14 system capable of generating more than 20 kilowatts qualify for
15 modified net metering.

16 (7) ~~(6)~~ Each electric utility and alternative electric
17 supplier shall maintain records of all applications and up-to-date
18 records of all active eligible electric generators located within
19 their service area.

20 Sec. 175. (1) An electric utility or alternative electric
21 supplier may charge a fee not to exceed ~~\$100.00~~ **\$50.00** to process
22 an application ~~for net metering. A customer with a system capable~~
23 ~~of generating more than 20 kilowatts~~ **TO PARTICIPATE IN THE**
24 **DISTRIBUTED GENERATION PROGRAM. THE CUSTOMER** shall pay all
25 interconnection costs. ~~A customer with a system capable of~~
26 ~~generating more than 150 kilowatts shall pay standby costs.~~ The
27 commission shall recognize the reasonable cost for each electric

1 utility and alternative electric supplier to operate a ~~net metering~~
2 **DISTRIBUTED GENERATION** program. For an electric utility with
3 1,000,000 or more retail customers in this state, the commission
4 shall include in that **ELECTRIC** utility's nonfuel base rates all
5 costs of meeting all program requirements except that all energy
6 costs of the program shall be recovered through the utility's power
7 supply cost recovery mechanism under ~~sections~~ **SECTION 6j and 6k** of
8 1939 PA 3, MCL 460.6j. ~~and 460.6k.~~ For an electric utility with
9 ~~less~~ **FEWER** than 1,000,000 base distribution customers in this
10 state, the commission shall allow that **ELECTRIC** utility to recover
11 all energy costs of the program through the power supply cost
12 recovery mechanism under ~~sections~~ **SECTION 6j and 6k** of 1939 PA 3,
13 MCL 460.6j, ~~and 460.6k,~~ and shall develop a cost recovery mechanism
14 for that utility to contemporaneously recover all other costs of
15 meeting the program requirements.

16 (2) The interconnection requirements of the ~~net metering~~
17 **DISTRIBUTED GENERATION** program shall provide that an electric
18 utility or alternative electric supplier shall, subject to any time
19 requirements imposed by the commission and upon reasonable written
20 notice to the ~~net metering~~ **DISTRIBUTED GENERATION** customer, perform
21 testing and inspection of an interconnected eligible electric
22 generator as is necessary to determine that the system complies
23 with all applicable electric safety, power quality, and
24 interconnection, **INCLUDING METERING**, requirements. The costs of
25 testing and inspection are considered a cost of operating a ~~net~~
26 ~~metering~~ **DISTRIBUTED GENERATION** program and shall be recovered
27 under subsection (1).

1 (3) The interconnection requirements shall require all
2 eligible electric generators, alternative electric suppliers, and
3 electric utilities to comply with all applicable federal, state,
4 and local laws, rules, or regulations, and any national standards
5 as determined by the commission.

6 Sec. 177. (1) Electric meters shall be used to determine the
7 amount of the customer's energy use in each billing period, net of
8 any excess energy the customer's generator delivers to the utility
9 distribution system during that same billing period. For a customer
10 with a generation system capable of generating more than 20
11 kilowatts, the utility shall install and utilize a generation meter
12 and a meter or meters capable of measuring the flow of energy in
13 both directions. A customer with a system capable of generating
14 more than 150 kilowatts shall pay the costs of installing any new
15 meters.

16 (2) An electric utility serving over 1,000,000 customers in
17 this state may provide its customers participating in the ~~net~~
18 ~~metering~~ **DISTRIBUTED GENERATION** program, at no additional charge, a
19 meter or meters capable of measuring the flow of energy in both
20 directions.

21 (3) An electric utility serving fewer than 1,000,000 customers
22 in this state shall provide a meter or meters described in
23 subsection (2) to customers participating in the ~~net metering~~
24 **DISTRIBUTED GENERATION** program at cost. Only the incremental cost
25 above that for meters provided by the electric utility to similarly
26 situated nongenerating customers shall be paid by the eligible
27 customer.

1 (4) If the quantity of electricity generated and delivered to
2 the utility distribution system by an eligible electric generator
3 during a billing period exceeds the quantity of electricity
4 supplied from the electric utility or alternative electric supplier
5 during the billing period, the eligible customer shall be credited
6 by their supplier of electric generation service for the excess
7 kilowatt hours generated during the billing period. The credit
8 shall appear on the bill for the following billing period and shall
9 be limited to the total power supply charges on that bill. Any
10 excess kilowatt hours not used to offset electric generation
11 charges in the next billing period will be carried forward to
12 subsequent billing periods. Notwithstanding any law or regulation,
13 ~~net metering~~ **DISTRIBUTED GENERATION** customers shall not receive
14 credits for electric utility transmission or distribution charges.
15 The credit per kilowatt hour for kilowatt hours delivered into the
16 utility's distribution system shall be either of the following:

17 (a) The monthly average real-time locational marginal price
18 for energy at the commercial pricing node within the electric
19 utility's distribution service territory, or for ~~net metering~~
20 **DISTRIBUTED GENERATION** customers on a time-based rate schedule, the
21 monthly average real-time locational marginal price for energy at
22 the commercial pricing node within the electric utility's
23 distribution service territory during the time-of-use pricing
24 period.

25 (b) The electric utility's or alternative electric supplier's
26 power supply component of the full retail rate during the billing
27 period or time-of-use pricing period.

1 AN ENERGY WASTE REDUCTION IMPROVEMENT OR THE ACQUISITION,
2 INSTALLATION, OR IMPROVEMENT OF A RENEWABLE ENERGY SYSTEM.

3 (B) "ENERGY WASTE REDUCTION IMPROVEMENT" MEANS EQUIPMENT,
4 DEVICES, OR MATERIALS INTENDED TO DECREASE ENERGY CONSUMPTION,
5 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

6 (i) INSULATION IN WALLS, ROOFS, FLOORS, FOUNDATIONS, OR
7 HEATING AND COOLING DISTRIBUTION SYSTEMS.

8 (ii) STORM WINDOWS AND DOORS; MULTI-GLAZED WINDOWS AND DOORS;
9 HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED WINDOW AND DOOR
10 SYSTEMS; AND ADDITIONAL GLAZING, REDUCTIONS IN GLASS AREA, AND
11 OTHER WINDOW AND DOOR MODIFICATIONS THAT REDUCE ENERGY CONSUMPTION.

12 (iii) AUTOMATED ENERGY CONTROL SYSTEMS.

13 (iv) HEATING, VENTILATING, OR AIR-CONDITIONING AND
14 DISTRIBUTION SYSTEM MODIFICATIONS OR REPLACEMENTS.

15 (v) AIR SEALING, CAULKING, AND WEATHER-STRIPPING.

16 (vi) LIGHTING FIXTURES THAT REDUCE THE ENERGY USE OF THE
17 LIGHTING SYSTEM.

18 (vii) ENERGY RECOVERY SYSTEMS.

19 (viii) DAY LIGHTING SYSTEMS.

20 (ix) ELECTRICAL WIRING OR OUTLETS TO CHARGE A MOTOR VEHICLE
21 THAT IS FULLY OR PARTIALLY POWERED BY ELECTRICITY.

22 (x) MEASURES TO REDUCE THE USAGE OF WATER OR INCREASE THE
23 EFFICIENCY OF WATER USAGE.

24 (xi) ANY OTHER INSTALLATION OR MODIFICATION OF EQUIPMENT,
25 DEVICES, OR MATERIALS APPROVED AS A UTILITY COST-SAVINGS MEASURE BY
26 THE GOVERNING BODY.

27 (C) "HOME ENERGY AUDIT" MEANS AN EVALUATION OF THE ENERGY

1 PERFORMANCE OF A RESIDENTIAL STRUCTURE THAT MEETS ALL OF THE
2 FOLLOWING REQUIREMENTS:

3 (i) IS PERFORMED BY A QUALIFIED PERSON USING BUILDING-
4 PERFORMANCE DIAGNOSTIC EQUIPMENT.

5 (ii) COMPLIES WITH AMERICAN NATIONAL STANDARDS INSTITUTE-
6 APPROVED HOME ENERGY AUDIT STANDARDS.

7 (iii) DETERMINES HOW BEST TO OPTIMIZE ENERGY PERFORMANCE WHILE
8 MAINTAINING OR IMPROVING HUMAN COMFORT, HEALTH, AND SAFETY AND THE
9 DURABILITY OF THE STRUCTURE.

10 (iv) INCLUDES A BASELINE ENERGY MODEL AND COST-BENEFIT
11 ANALYSIS FOR RECOMMENDED ENERGY WASTE REDUCTION IMPROVEMENTS.

12 (D) "PROPERTY" MEANS PRIVATELY OWNED RESIDENTIAL REAL
13 PROPERTY.

14 (E) "RECORD OWNER" MEANS THE PERSON OR PERSONS POSSESSED OF
15 THE MOST RECENT FEE TITLE OR LAND CONTRACT VENDEE'S INTEREST IN
16 PROPERTY AS SHOWN BY THE RECORDS OF THE COUNTY REGISTER OF DEEDS.

17 (F) "RESIDENTIAL ENERGY PROJECTS PROGRAM" OR "PROGRAM" MEANS A
18 PROGRAM AS DESCRIBED IN SECTION 203(2).

19 SEC. 203. (1) PURSUANT TO SECTION 205, A PROVIDER WHOSE RATES
20 ARE REGULATED BY THE COMMISSION MAY ESTABLISH A RESIDENTIAL ENERGY
21 PROJECTS PROGRAM.

22 (2) UNDER A RESIDENTIAL ENERGY PROJECTS PROGRAM, IF A RECORD
23 OWNER OF PROPERTY IN THE PROVIDER'S SERVICE TERRITORY OBTAINS
24 FINANCING OR REFINANCING OF AN ENERGY PROJECT ON THE PROPERTY FROM
25 A COMMERCIAL LENDER OR OTHER LEGAL ENTITY, INCLUDING AN INDEPENDENT
26 SUBSIDIARY OF THE PROVIDER, THE LOAN IS REPAID THROUGH ITEMIZED
27 CHARGES ON THE PROVIDER'S UTILITY BILL FOR THAT PROPERTY. THE

1 ITEMIZED CHARGES MAY COVER THE COST OF MATERIALS AND LABOR
2 NECESSARY FOR INSTALLATION, HOME ENERGY AUDIT COSTS, PERMIT FEES,
3 INSPECTION FEES, APPLICATION AND ADMINISTRATIVE FEES, BANK FEES,
4 AND ALL OTHER FEES THAT MAY BE INCURRED BY THE RECORD OWNER FOR THE
5 INSTALLATION ON A SPECIFIC OR PRO RATA BASIS, AS DETERMINED BY THE
6 PROVIDER.

7 SEC. 205. (1) A RESIDENTIAL ENERGY PROJECTS PROGRAM MAY ONLY
8 BE ESTABLISHED AND IMPLEMENTED PURSUANT TO A PLAN APPROVED BY THE
9 COMMISSION. A PROVIDER SEEKING TO ESTABLISH A RESIDENTIAL ENERGY
10 PROJECTS PROGRAM SHALL FILE A PROPOSED PLAN WITH THE COMMISSION.

11 (2) A PLAN UNDER SUBSECTION (1) SHALL INCLUDE ALL OF THE
12 FOLLOWING:

13 (A) THE ESTIMATED COSTS OF ADMINISTRATION OF THE RESIDENTIAL
14 ENERGY PROJECTS PROGRAM.

15 (B) WHETHER THE RESIDENTIAL ENERGY PROJECTS PROGRAM WILL BE
16 ADMINISTERED BY A THIRD PARTY.

17 (C) AN APPLICATION PROCESS AND ELIGIBILITY REQUIREMENTS FOR A
18 RECORD OWNER TO PARTICIPATE IN THE RESIDENTIAL ENERGY PROJECTS
19 PROGRAM.

20 (D) AN APPLICATION FORM GOVERNING THE TERMS AND CONDITIONS FOR
21 A RECORD OWNER'S PARTICIPATION IN THE PROGRAM, INCLUDING AN
22 EXPLANATION OF BILLING UNDER SUBDIVISION (F) AND OF THE PROVISIONS
23 OF SECTION 207.

24 (E) A DESCRIPTION OF ANY FEES TO COVER APPLICATION,
25 ADMINISTRATION, OR OTHER PROGRAM COSTS TO BE CHARGED TO A RECORD
26 OWNER PARTICIPATING IN THE PROGRAM, INCLUDING THE AMOUNT OF EACH
27 FEE, IF KNOWN, OR PROCEDURES TO DETERMINE THE AMOUNT. A FEE SHALL

1 NOT EXCEED THE COSTS INCURRED BY THE PROVIDER FOR THE ACTIVITY FOR
2 WHICH THE FEE IS CHARGED.

3 (F) PROVISIONS FOR BILLING CUSTOMERS OF THE PROVIDER ANY FEES
4 UNDER SUBDIVISION (E) AND THE MONTHLY INSTALLMENT PAYMENTS AS A
5 PER-METER CHARGE ON THE BILL FOR ELECTRIC OR NATURAL GAS SERVICES.

6 (G) PROVISIONS FOR MARKETING AND PARTICIPANT EDUCATION.

7 (3) THE COMMISSION SHALL NOT APPROVE A PROVIDER'S PROPOSED
8 RESIDENTIAL ENERGY PROJECTS PLAN UNLESS THE COMMISSION DETERMINES
9 THAT THE PLAN IS REASONABLE AND PRUDENT.

10 (4) 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 (5) EVERY 4 YEARS AFTER INITIAL APPROVAL OF A PLAN UNDER
14 SUBSECTION (1), THE COMMISSION SHALL REVIEW THE PLAN.

15 SEC. 207. (1) A BASELINE HOME ENERGY AUDIT SHALL BE CONDUCTED
16 BEFORE AN ENERGY PROJECT THAT WILL BE PAID FOR THROUGH CHARGES ON
17 THE UTILITY BILL UNDER THIS PART IS UNDERTAKEN. AFTER THE ENERGY
18 PROJECT IS COMPLETED, THE PROVIDER SHALL OBTAIN VERIFICATION THAT
19 THE ENERGY PROJECT WAS PROPERLY INSTALLED AND IS OPERATING AS
20 INTENDED.

21 (2) ELECTRIC OR NATURAL GAS SERVICE MAY BE SHUT OFF FOR
22 NONPAYMENT OF THE PER-METER CHARGE DESCRIBED UNDER SECTION 205 IN
23 THE SAME MANNER AND PURSUANT TO THE SAME PROCEDURES AS USED TO
24 ENFORCE NONPAYMENT OF OTHER CHARGES FOR THE PROVIDER'S ELECTRIC OR
25 NATURAL GAS SERVICE. IF NOTICE OF A LOAN UNDER THE PROGRAM IS
26 RECORDED WITH THE REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE
27 PROPERTY IS LOCATED, THE OBLIGATION TO PAY THE PER-METER CHARGE

1 SHALL RUN WITH THE LAND AND BE BINDING ON FUTURE CUSTOMERS
2 CONTRACTING FOR ELECTRIC SERVICE OR NATURAL GAS SERVICE, AS
3 APPLICABLE, TO THE PROPERTY.

4 SEC. 209. (1) THE TERM OF A LOAN PAID THROUGH A RESIDENTIAL
5 ENERGY PROJECTS PROGRAM SHALL NOT EXCEED THE ANTICIPATED USEFUL
6 LIFE OF THE ENERGY PROJECT FINANCED BY THE LOAN OR 180 MONTHS,
7 WHICHEVER IS LESS. THE LOAN SHALL BE REPAID IN MONTHLY
8 INSTALLMENTS.

9 (2) THE LENDER SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS
10 APPLICABLE TO THE EXTENSION OF CREDIT FOR HOME IMPROVEMENTS.

11 (3) IF A NONPROFIT CORPORATION MAKES LOANS TO OWNERS OF
12 PROPERTY TO BE REPAID UNDER A RESIDENTIAL ENERGY PROJECTS PROGRAM,
13 INTEREST SHALL BE CHARGED ON THE UNPAID BALANCE AT A RATE OF NOT
14 MORE THAN THE ADJUSTED PRIME RATE AS DETERMINED UNDER SECTION 23 OF
15 1941 PA 122, MCL 205.23, PLUS 4%.

16 SEC. 211. (1) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
17 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE COMMISSION SHALL
18 PROMULGATE RULES TO IMPLEMENT THIS PART WITHIN 1 YEAR AFTER THE
19 EFFECTIVE DATE OF THIS SECTION.

20 (2) EVERY 5 YEARS AFTER THE PROMULGATION OF RULES UNDER
21 SUBSECTION (1), THE COMMISSION SHALL SUBMIT A REPORT TO THE
22 STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES WITH
23 PRIMARY RESPONSIBILITY FOR ENERGY ISSUES ON THE IMPLEMENTATION OF
24 THIS PART AND ANY RECOMMENDATIONS FOR LEGISLATION TO AMEND THIS
25 PART. THE REPORT MAY BE COMBINED WITH THE ANNUAL REPORT UNDER
26 SECTION 5A OF 1939 PA 3, MCL 460.5A.

27 Enacting section 1. Sections 21, 23, 25, 27, 29, 31, 33, 35,

1 37, 39, 43, 45, 51, 53, 79, and 155 of the clean, renewable, and
2 efficient energy act, 2008 PA 295, MCL 460.1021, 460.1023,
3 460.1025, 460.1027, 460.1029, 460.1031, 460.1033, 460.1035,
4 460.1037, 460.1039, 460.1043, 460.1045, 460.1051, 460.1053,
5 460.1079, and 460.1155, are repealed.

6 Enacting section 2. Except as otherwise provided in this
7 amendatory act, this amendatory act takes effect 90 days after the
8 date it is enacted into law.

9 Enacting section 3. This amendatory act does not take effect
10 unless Senate Bill No. 437 of the 98th Legislature is enacted into
11 law.