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BILL ANALYSIS

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Senate Bill 1165 (as introduced 3-4-08)
Sponsor: Senator Jim Barcia
Committee: Energy Policy and Public Utilities

Date Completed: 3-13-08

CONTENT

The bill would amend Public Act 3 of 1939, the Public Service Commission (PSC) law, to do the following:

- Require the PSC to implement procedures for an electric utility to recover its costs of investing in a pilot IGCC facility (an integrated gasification combined cycle plant).**
- Require the PSC to include in the renewable portfolio standard (RPS) of an electric utility that invested in a pilot IGCC facility, that utility's fractional share of the electric power generated by the facility.**
- Authorize the PSC to provide additional incentives for participation in an IGCC pilot project.**
- Require the PSC to issue a qualified order authorizing the recovery of qualified costs by an electric or gas utility for long-term supply contracts for the purchase of substitute natural gas or electric power produced by an IGCC facility or gasifier.**

Pilot IGCC Facility

Under the bill, notwithstanding any other law to the contrary, in order to encourage electric utilities to participate as investors in a pilot IGCC facility, the PSC would have to implement procedures to provide for both of the following:

- Assurances, through the issuance of a final order before the commencement of construction, authorizing each electric utility investing at least 20% of the total cost of the pilot facility to recover from customers the utility's fractional share of the costs incurred reasonably and prudently in connection with the development, construction, operation, and maintenance of the pilot facility.
- Inclusion of the utility's fractional share of the electric power generated by the facility toward any RPS for that utility.

(Under the bill, "IGCC facility" would mean an integrated gasification combined cycle plant located in Michigan that produces synthetic or methanized synthetic gas from carbon-based feedstock, including coal, petroleum coke, wood, biomass, and other agricultural products; and uses that synthetic gas to generate electricity. The term would include the transmission lines and facilities, gas transportation lines and facilities, and associated property and equipment employed specifically to serve that facility.)

An electric utility seeking to recover costs under the bill would have to apply to the PSC for approval of a cost recovery mechanism in the manner determined by the Commission. A utility's proposed cost recovery mechanism could be based on actual or forecasted data. If forecasted data were used, the cost recovery mechanism would have to contain a reconciliation mechanism to correct for any variance between the forecasted costs and actual costs.

In addition to those incentives, the PSC could provide any other incentives it considered prudent for electric utilities that participated as investors in the pilot facility.

IGCC Facility/Gasifier Supply Contracts

Notwithstanding any other law to the contrary, in order to encourage electric and gas utilities to enter into long-term supply contracts for the purchase of substitute natural gas or electric power produced by an IGCC facility or gasifier, the PSC could issue a qualified order that approved the terms of a qualified contract and authorized the recovery of qualified costs by a utility from its customers. A qualified order could not be rescinded, nullified, or modified in a manner that reduced or otherwise impaired the value of a qualified contract.

(Under the bill, "gasifier" would mean a facility located in Michigan that produces synthetic or methanized synthetic gas from carbon-based feedstock, including coal, petroleum coke, wood, biomass, and other agricultural products; and uses that synthetic gas to generate electricity. "Substitute natural gas" would mean pipeline quality synthetic methane gas produced by an IGCC facility or a gasifier that is capable of being used for any of the following:

- To generate electric power to be sold to electric utilities in Michigan for resale to their customers in this State.
- To supply gas utility service to Michigan customers.
- As a fuel to generate electric power to supply electric utility service to Michigan customers.

"Qualified order" would mean a final and irrevocable order issued by the PSC that approved a qualified contract adopted in accordance with the bill. "Qualified contract" would mean a contract for a period of up to 30 years for the sale of substitute natural gas or electric power to a public utility. The PSC could approve a qualified contract for a period of more than 30 years upon a showing that the longer period was required by a lender or a State or Federal loan or grant program.

"Qualified cost" would mean any cost incurred by a public utility in purchasing substitute natural gas or electric power under a qualified contract.)

Notwithstanding any other law to the contrary, if the PSC approved a qualified contract for the purchase of substitute natural gas or electric power generated in connection with the production of substitute natural gas, it would have to allow the utility to recover the following costs on a timely basis throughout the term of the qualified contract:

- All costs incurred in connection with and resulting from the utility's purchases under the contract, including the cost of the substitute natural gas or electric power and related costs for generation, transmission, transportation, and storage services.
- All costs the utility incurred in obtaining replacement gas or electric power if the seller failed to deliver substitute natural gas or electric power required to be delivered under the qualified contract, including the price of the replacement gas or electric power and the related transportation, transmission, storage, and hedging costs, to the extent that those costs were not paid by the seller.

-- Upon petition by the utility, any other costs that the PSC found were reasonably necessary in association with the qualified contract.

Any of those recovered costs would be in addition to the recovery of other costs.

Proposed MCL 460.6q

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would increase the regulatory responsibilities of the PSC by requiring cost recovery and supply contract approvals through a qualified order. The additional costs would be covered through assessments imposed on utilities.

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