

HOUSE BILL No. 5700

December 15, 2009, Introduced by Reps. Scripps, Meekhof, Byrnes, Griffin, Robert Jones and Warren and referred to the Committee on Energy and Technology.

A bill to amend 2008 PA 295, entitled
"Clean, renewable, and efficient energy act,"
by amending sections 5, 7, 173, 175, and 177 (MCL 460.1005,
460.1007, 460.1173, 460.1175, and 460.1177).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. As used in this act:

2 (a) "Electric provider", subject to sections 21(1), 23(1), and
3 25(1), means any of the following:

4 (i) Any person or entity that is regulated by the commission
5 for the purpose of selling electricity to retail customers in this
6 state.

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

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

2 (iv) Except as used in subpart B of part 2, an alternative
3 electric supplier licensed under section 10a of 1939 PA 3, MCL
4 460.10a.

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

9 (i) ~~For a renewable energy system, 150 kilowatts~~ **EXCEPT AS**
10 **PROVIDED IN SUBPARAGRAPH (ii), 2 MEGAWATTS** of aggregate generation
11 at a single site **OR THE CUSTOMER'S ELECTRIC NEED, WHICHEVER IS**
12 **LESS.**

13 (ii) ~~For a methane digester, 550 kilowatts of aggregate~~
14 ~~generation at a single site~~ **RENEWABLE ENERGY SYSTEM LOCATED ON A**
15 **FARM, 2 MEGAWATTS.**

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 that target customer behavior, equipment, devices, or
23 materials without reducing the quality of energy services.

24 (e) "Energy optimization", subject to subdivision (f), means
25 all of the following:

26 (i) Energy efficiency.

27 (ii) Load management, to the extent that the load management

1 reduces overall energy usage.

2 (iii) Energy conservation, but only to the extent that the
3 decreases in the consumption of electricity produced by energy
4 conservation are objectively measurable and attributable to an
5 energy optimization plan.

6 (f) Energy optimization does not include electric provider
7 infrastructure projects that are approved for cost recovery by the
8 commission other than as provided in this act.

9 (g) "Energy optimization credit" means a credit certified
10 pursuant to section 87 that represents achieved energy
11 optimization.

12 (h) "Energy optimization plan" or "EO plan" means a plan
13 **APPROVED** under section ~~71~~–73.

14 (i) "Energy optimization standard" means the minimum energy
15 savings required to be achieved under section 77.

16 (j) "Energy star" means the voluntary partnership among the
17 United States department of energy, the United States environmental
18 protection agency, product manufacturers, local utilities, and
19 retailers to help promote energy efficient products by labeling
20 with the energy star logo, **TO** educate consumers about the benefits
21 of energy efficiency, and **TO** help promote energy efficiency in
22 buildings by benchmarking and rating energy performance.

23 (k) "Federal approval" means approval by the applicable
24 regional transmission organization or other federal energy
25 regulatory commission approved transmission planning process of a
26 transmission project that includes the transmission line. Federal
27 approval may be evidenced in any of the following manners:

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

4 (ii) The applicable regional transmission organization has
5 informed the electric utility, affiliated transmission company, or
6 independent transmission company that a transmission project
7 submitted for an out-of-cycle project review has been approved by
8 the applicable regional transmission organization, and the approved
9 transmission project includes the proposed transmission line.

10 (iii) If, after ~~the effective date of this act~~ **OCTOBER 6, 2008**,
11 the applicable regional transmission organization utilizes another
12 approval process for transmission projects proposed by an electric
13 utility, affiliated transmission company, or independent
14 transmission company, the proposed transmission line is included in
15 a transmission project approved by the applicable regional
16 transmission organization through the approval process developed
17 after ~~the effective date of this act~~ **OCTOBER 6, 2008**.

18 (iv) Any other federal energy regulatory commission approved
19 transmission planning process for a transmission project.

20 Sec. 7. As used in this act:

21 (a) "Gasification facility" means a facility located in this
22 state that uses a thermochemical process that does not involve
23 direct combustion, ~~to produce~~ **WHICH PROCESS PRODUCES** synthesis gas,
24 composed of carbon monoxide and hydrogen, from carbon-based
25 feedstocks (such as coal, petroleum coke, wood, biomass, hazardous
26 waste, medical waste, industrial waste, and solid waste, including,
27 but not limited to, municipal solid waste, electronic waste, and

1 waste described in section 11514 of the natural resources and
2 environmental protection act, 1994 PA 451, MCL 324.11514) and that
3 uses the synthesis gas or a mixture of the synthesis gas and
4 methane to generate electricity for commercial use. Gasification
5 facility includes the transmission lines, gas transportation lines
6 and facilities, and associated property and equipment specifically
7 attributable to such a facility. Gasification facility includes,
8 but is not limited to, an integrated gasification combined cycle
9 facility and a plasma arc gasification facility.

10 (b) "Incremental costs of compliance" means the net revenue
11 required by an electric provider to comply with the renewable
12 energy standard, calculated, **FOR AN ELECTRIC PROVIDER WHOSE RATES**
13 **ARE REGULATED BY THE COMMISSION**, as provided under section 47.

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

17 (d) "Industrial cogeneration facility" means a facility that
18 generates electricity using industrial thermal energy or industrial
19 waste energy.

20 (e) "Industrial thermal energy" means thermal energy that is a
21 by-product of an industrial or manufacturing process and that would
22 otherwise be wasted. For the purposes of this subdivision,
23 industrial or manufacturing process does not include the generation
24 of electricity.

25 (f) "Industrial waste energy" means exhaust gas or flue gas
26 that is a by-product of an industrial or manufacturing process and
27 that would otherwise be wasted. For the purposes of this

1 subdivision, industrial or manufacturing process does not include
2 the generation of electricity.

3 (g) "Integrated gasification combined cycle facility" means a
4 gasification facility that uses a thermochemical process, including
5 high temperatures and controlled amounts of air and oxygen, to
6 break substances down into their molecular structures and that uses
7 exhaust heat to generate electricity.

8 (h) "LEED" means the leadership in energy and environmental
9 design green building rating system developed by the United States
10 green building council.

11 (i) "Load management" means measures or programs that target
12 equipment or devices to result in decreased peak electricity demand
13 such as by shifting demand from a peak to an off-peak period.

14 (j) "Modified net metering" means a utility billing method
15 that applies the power supply component of the full retail rate to
16 the net of the bidirectional flow of kilowatt hours across the
17 customer interconnection with the utility distribution system,
18 during a billing period or time-of-use pricing period. A negative
19 net metered quantity during the billing period or during each time-
20 of-use pricing period within the billing period reflects net excess
21 generation for which the customer is entitled to receive credit
22 under section 177(4). ~~Standby charges for modified net metering~~
23 ~~customers on an energy rate schedule shall be equal to the retail~~
24 ~~distribution charge applied to the imputed customer usage during~~
25 ~~the billing period. The imputed customer usage is calculated as the~~
26 ~~sum of the metered on-site generation and the net of the~~
27 ~~bidirectional flow of power across the customer interconnection~~

1 ~~during the billing period. The commission shall establish standby~~
2 ~~charges for modified net metering customers on demand based rate~~
3 ~~schedules that provide an equivalent contribution to utility system~~
4 ~~costs.~~

5 Sec. 173. (1) The commission shall establish a statewide net
6 metering program by order issued ~~not later than 180 days after the~~
7 ~~effective date of this act. No later than 180 days after the~~
8 ~~effective date of this act~~ **BY APRIL 4, 2009. BY APRIL 4, 2009**, the
9 commission shall promulgate rules regarding any time limits on the
10 submission of net metering applications or inspections of net
11 metering equipment and any other matters the commission considers
12 necessary to implement this part. Any rules adopted regarding time
13 limits for approval of parallel operation shall recognize
14 reliability and safety complications including those arising from
15 equipment saturation, use of multiple technologies, and proximity
16 to synchronous motor loads. The program shall apply to all electric
17 utilities and alternative electric suppliers in this state. Except
18 as otherwise provided under this part, ~~customers~~ **A CUSTOMER** of any
19 class ~~are~~ **IS** eligible to interconnect eligible electric generators
20 with the customer's local electric utility and operate the **ELIGIBLE**
21 **ELECTRIC** generators in parallel with the distribution system. The
22 program shall be designed for a period of not less than 10 years.
23 ~~and limit each customer to generation capacity designed to meet~~
24 ~~only the customer's electric needs.~~ The commission may waive the
25 application, interconnection, and installation requirements of this
26 part for customers participating in the net metering program under
27 the commission's March 29, 2005 order in case no. U-14346.

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

8 (a) No more than 0.5% for customers with a system capable of
9 generating 20 kilowatts or less.

10 (b) No more than ~~0.25%~~0.75% for customers with a system
11 capable of generating more than 20 kilowatts but not more than ~~150~~
12 ~~kilowatts~~1 **MEGAWATT**.

13 (c) No more than ~~0.25%~~0.75% for customers with a system
14 capable of generating more than ~~150 kilowatts~~1 **MEGAWATT**.

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

19 (4) An electric utility or alternative electric supplier shall
20 not refuse to provide or discontinue electric service to a customer
21 solely ~~for the reason that~~BECAUSE the customer participates in the
22 net metering program.

23 (5) The program created under subsection (1) shall include all
24 of the following:

25 (a) Statewide uniform interconnection requirements for all
26 eligible electric generators. The interconnection requirements
27 shall be designed to protect electric utility workers and equipment

1 and the general public.

2 (b) Net metering equipment and its installation must meet all
 3 current local and state electric and construction code
 4 requirements. Any equipment that is certified by a nationally
 5 recognized testing laboratory to IEEE 1547.1 testing standards and
 6 in compliance with UL 1741 scope 1.1A, effective May 7, 2007, and
 7 installed in compliance with this part is considered to be eligible
 8 equipment. Within the time provided by the commission in rules
 9 promulgated under subsection (1) and consistent with good utility
 10 practice ~~—AND THE~~ protection of electric utility workers,
 11 ~~protection of electric utility equipment, and protection of the~~
 12 general public, an electric utility may study, confirm, and ensure
 13 that an eligible electric generator installation at the customer's
 14 site meets the IEEE 1547 anti-islanding requirements. ~~Utility~~
 15 ~~testing and approval of the interconnection and execution of a~~
 16 ~~parallel operating agreement must be completed prior to the~~
 17 ~~equipment operating~~ **AN ELIGIBLE ELECTRIC GENERATOR SHALL NOT BE**
 18 **OPERATED** in parallel with the distribution system of ~~the utility.~~
 19 **AN ELECTRIC UTILITY UNLESS BOTH OF THE FOLLOWING REQUIREMENTS HAVE**
 20 **BEEN MET:**

21 (i) **THE ELECTRIC UTILITY HAS TESTED AND APPROVED THE**
 22 **INTERCONNECTION.**

23 (ii) **THE ELECTRIC UTILITY AND CUSTOMER HAVE EXECUTED A PARALLEL**
 24 **OPERATING AGREEMENT.**

25 (c) A uniform application form and process to be used by all
 26 electric utilities and alternative electric suppliers in this
 27 state. Customers who are served by an alternative electric supplier

1 shall submit a copy of the application to the electric utility for
2 the customer's service area.

3 (d) Net metering customers with ~~a system~~ **AN ELIGIBLE ELECTRIC**
4 **GENERATOR** capable of generating 20 kilowatts or less qualify for
5 true net metering.

6 (e) Net metering customers with ~~a system~~ **AN ELIGIBLE ELECTRIC**
7 **GENERATOR** capable of generating more than 20 kilowatts qualify for
8 modified net metering.

9 (6) Each electric utility and alternative electric supplier
10 shall maintain records of all applications and up-to-date records
11 of all active eligible electric generators located within their
12 service area.

13 Sec. 175. (1) An electric utility or alternative electric
14 supplier may charge a fee not to exceed \$100.00 to process an
15 application for net metering. A **NET METERING** customer ~~with a system~~
16 ~~capable of generating more than 20 kilowatts~~ shall pay all
17 interconnection costs ~~. A customer with a system capable of~~
18 ~~generating more than 150 kilowatts shall pay~~ **FOR THE ELIGIBLE**
19 **ELECTRIC GENERATOR AS DETERMINED BASED ON THE COMMISSION'S**
20 **INTERCONNECTION RULES BUT IS NOT LIABLE FOR POWER SUPPLY OR**
21 **DELIVERY** standby costs. The commission shall recognize the
22 reasonable cost for each electric utility and alternative electric
23 supplier to operate a net metering program. For an electric utility
24 with 1,000,000 or more retail customers in this state, the
25 commission shall include in that **ELECTRIC** utility's nonfuel base
26 rates all costs of meeting all program requirements except that all
27 energy costs of the program shall be recovered through the

1 utility's power supply cost recovery mechanism under ~~sections~~
2 **SECTION 6j and 6k** of 1939 PA 3, MCL 460.6j. and ~~460.6k.~~ For an
3 electric utility with less than 1,000,000 base distribution
4 customers in this state, the commission shall allow that utility to
5 recover all energy costs of the program through the power supply
6 cost recovery mechanism under ~~sections~~ **SECTION 6j and 6k** of 1939 PA
7 3, MCL 460.6j, and ~~460.6k,~~ and shall develop a cost recovery
8 mechanism for that utility to contemporaneously recover all other
9 costs of meeting the program requirements.

10 (2) The interconnection requirements of the net metering
11 program shall provide that an electric utility or alternative
12 electric supplier shall, subject to any time requirements imposed
13 by the commission and upon reasonable written notice to the net
14 metering customer, perform testing and inspection of an
15 interconnected eligible electric generator as is necessary to
16 determine that the system complies with all applicable electric
17 safety, power quality, and interconnection requirements. The costs
18 of testing and inspection are considered a cost of operating a net
19 metering program and shall be recovered under subsection (1).

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

25 Sec. 177. (1) ~~Electric~~ **IN THE NET METERING PROGRAM UNDER**
26 **SECTION 173(1), ELECTRIC** meters shall be used to determine the
27 amount of ~~the~~ **A** customer's energy use in each billing period, net

1 of any excess energy the customer's **ELIGIBLE ELECTRIC** generator
2 delivers to the **ELECTRIC** utility distribution system during that
3 same billing period. For a customer with ~~a generation system~~ **AN**
4 **ELIGIBLE ELECTRIC GENERATOR** capable of generating more than 20
5 kilowatts, the utility shall install and utilize a generation meter
6 and a meter or meters capable of measuring the flow of energy in
7 both directions. A customer with ~~a system~~ **AN ELIGIBLE ELECTRIC**
8 **GENERATOR** capable of generating more than ~~150 kilowatts~~ **1 MEGAWATT**
9 shall pay the costs of installing any new meters.

10 (2) An electric utility serving ~~over~~ 1,000,000 **OR MORE**
11 customers in this state ~~may~~ **SHALL** provide its customers
12 participating in the net metering program, at no additional charge
13 **OR FOR A CHARGE NOT GREATER THAN THAT ALLOWED UNDER SUBSECTION (3)**,
14 a meter or meters capable of measuring the flow of energy in both
15 directions.

16 (3) An electric utility serving fewer than 1,000,000 customers
17 in this state shall provide a meter or meters ~~described in~~
18 ~~subsection (2)~~ **CAPABLE OF MEASURING THE FLOW OF ENERGY IN BOTH**
19 **DIRECTIONS** to customers participating in the net metering program,
20 at cost ~~—Only~~ **AT A CHARGE EQUAL TO** the incremental cost above that
21 for meters provided by the electric utility to similarly situated
22 nongenerating customers. ~~shall be paid by the eligible customer.~~

23 (4) If the quantity of electricity generated and delivered to
24 the **ELECTRIC** utility distribution system by an eligible electric
25 generator during a billing period exceeds the quantity of
26 electricity supplied from the electric utility or alternative
27 electric supplier during the billing period, the eligible customer

1 shall be credited by ~~their~~**THE** supplier of electric generation
2 service for the excess kilowatt hours generated during the billing
3 period. The credit shall appear on the bill for the following
4 billing period and shall be limited to the total power supply
5 charges on that bill. Any excess kilowatt hours not used to offset
6 electric generation charges in the next billing period will be
7 carried forward to subsequent billing periods. **HOWEVER, ANNUALLY,**
8 **AT THE END OF A MONTH SPECIFIED BY THE NET METERING CUSTOMER, THE**
9 **ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC PROVIDER SHALL PAY THE**
10 **CUSTOMER FOR ANY ACCUMULATED EXCESS KILOWATT HOURS. THOSE KILOWATT**
11 **HOURS SHALL NOT SUBSEQUENTLY BE USED TO OFFSET ELECTRIC GENERATION**
12 **CHARGES. THE PRICE PAID FOR THE ACCUMULATED EXCESS KILOWATT HOURS**
13 **SHALL BE THE ANNUAL AVERAGE REAL-TIME MARGINAL PRICE FOR ENERGY FOR**
14 **THE MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR'S MICHIGAN**
15 **HUB.** Notwithstanding any law or regulation, net metering customers
16 shall not receive credits for electric utility transmission or
17 distribution charges. The credit per kilowatt hour for kilowatt
18 hours delivered into the ~~utility's~~**ELECTRIC UTILITY** distribution
19 system shall be either of the following:

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

27 (b) The electric utility's or alternative electric supplier's

- 1 power supply component of the full retail rate during the billing
- 2 period or time-of-use pricing period.