



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 438 (as introduced 7-1-15)  
Sponsor: Senator John Proos  
Committee: Energy and Technology

Date Completed: 7-15-15

**CONTENT**

The bill would repeal provisions of the Clean, Renewable, and Efficient Energy Act that establish a renewable energy standard, consisting of a renewable energy capacity portfolio and a renewable energy credit portfolio, under which 10% of an electric provider's energy must come from renewable sources by 2015; and would amend the Act to do the following:

- Change the name of the Act to the "Clean and Efficient Energy Act".
- Replace a number of references to "renewable" energy with references to "clean" energy.
- Revise provisions related to renewable energy credits.
- Revise the definition of "advanced cleaner energy system".
- With regard to the recovery of incremental costs of compliance with the renewable energy standard by an electric utility whose rates are regulated by the Public Service Commission (PSC), eliminate a limit on the impact of the recovery on retail rates.
- Require an electric provider to offer to its customers the opportunity to participate in a voluntary green pricing program, under which the customer could specify that a certain percentage of the electricity provided to that customer be renewable energy.
- Provide that established energy optimization programs intended to reduce the future costs of providing service to customers would continue in effect as energy waste reduction programs.
- Refer to "energy waste reduction" rather than "energy efficiency" and "energy optimization" throughout the Act.
- Provide for the phaseout of an energy waste reduction standard by January 1, 2019.
- Revise the amount of the incentive a rate-regulated provider may obtain by exceeding the energy waste reduction standard.
- Authorize a natural gas provider that could not achieve the waste reduction standard in a cost-effective manner over a two-year period to petition the PSC to establish alternative standards.
- Repeal provisions related to energy waste reduction credits on January 1, 2019.
- Beginning January 1, 2019, revise provisions regarding a utility's recovery of costs associated with implementation of an energy waste reduction plan.
- Delete provisions related to self-directed energy optimization programs implemented by certain commercial and industrial electric customers.
- Specify that load management could include a voluntary program under which an electric provider could remotely shut down energy intensive systems of participating customers.

- **Delete requirements that the PSC engage in certain activities related to energy efficiency and conservation.**
- **Require a natural gas provider to submit to the PSC an annual report on its actions taken to comply with energy waste reduction standards.**
- **Require the PSC to submit an annual report to the Legislature on whether the energy waste reduction provisions were cost-effective.**
- **Authorize the PSC to suspend the energy waste reduction program of a natural gas provider that was determined not to be cost-effective.**
- **Until January 1, 2019, provide for redress of violations of the waste reduction provisions by a member-regulated cooperative electric utility or a municipally owned electric utility.**
- **Replace a net metering program with a distributed generation program under which an electric customer could generate up to 110% of the customer's average annual electricity consumption.**
- **Allow an electric provider to establish a residential energy projects program under which property owners could finance energy projects through an itemized charge on their utility bills.**

Except as otherwise provided, the bill would take effect 90 days after it was enacted.

#### Purpose

The Act states that its purpose is to promote the development of clean energy, renewable energy, and energy optimization through the implementation of a clean, renewable, and energy efficient standard that will cost-effectively do all of the following:

- Diversify the resources used to reliably meet the energy needs of Michigan consumers.
- Provide greater energy security through the use of indigenous energy resources available within the State.
- Encourage private investment in renewable energy and energy efficiency.
- Provide improved air quality and other benefits to Michigan energy consumers and citizens.

Under the bill, the Act's purpose would be to promote the development and use of clean energy resources and the reduction of energy waste through programs to cost-effectively achieve the prescribed goals. Additionally, the bill would refer to private investment in clean energy and energy waste reduction, and coordinating with Federal regulations to provide improved air quality and other benefits to energy consumers and citizens.

The bill would define "clean energy" as electricity generated using a clean energy resource. "Clean energy resource" would mean an electric generation technology that meets all current State and Federal air emissions regulations or qualifies under U.S. Environmental Protection Agency regulations as being carbon neutral. The term would include a fossil fuel generation technology in which at least 85% of the carbon dioxide emissions are captured and permanently sequestered or used for other commercial or industrial purposes that do not result in the release of carbon dioxide into the atmosphere.

The Act defines "energy efficiency" as a decrease in customer consumption of electricity or natural gas achieved through measures or programs that target customer behavior, equipment, devices, or materials without reducing the quality of energy services.

Under the bill, "energy waste reduction" would mean the following:

- Energy efficiency.
- Load management, to the extent that it reduces overall energy use.

- Energy conservation, but only to the extent that the decreases in electricity consumption are objectively measureable and attributable to an energy waste reduction plan.

The term would not include electric provider infrastructure projects that were approved for cost recovery by the Public Service Commission other than as provided in the Act.

Currently, this definition applies to the term "energy optimization", referring to "optimization" where the bill refers to "waste reduction".

### Renewable Energy Credits

The Act provides that renewable energy credits may be traded, sold, or otherwise transferred, and requires the PSC to establish a renewable energy credit certification and tracking program.

An electric provider is responsible for demonstrating that a renewable energy credit used to comply with a renewable energy credit standard is derived from a renewable energy source and that the provider has not previously used or traded, sold, or otherwise transferred the credit. A provider may use the same credit to comply with both a Federal standard for renewable energy and the renewable energy standard prescribed in the Act. An electric provider that uses a renewable energy credit to comply with another state's renewable energy standard may not use the same credit to comply with the renewable energy credit standard prescribed in the Act. The bill would delete these provisions.

The bill also would delete a requirement that the credit certification and tracking program include a method for ensuring that both a renewable energy credit and an advanced cleaner energy credit are not awarded for the same megawatt hour of energy.

In addition, the bill would delete a provision stating that a renewable energy credit purchased from a renewable energy system in Michigan does not have to be used in Michigan.

The Act defines "renewable energy" as electricity generated using a renewable energy system. "Renewable energy system" means a facility, electricity generation system, or set of generation systems that use one or more renewable energy resources to generate electricity. The term does not include the following:

- A hydroelectric pumped storage facility.
- A hydroelectric facility that uses a dam constructed after October 6, 2008, unless the dam is a repair or replacement of a dam existing on that date that increases its energy efficiency.
- An incinerator, unless it is a municipal solid waste incinerator that was brought into service before October 6, 2008.

Under the bill, the hydroelectric facilities would not be excluded from the definition of "renewable energy system".

"Renewable energy resource" means a resource that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar, water, or wind power. The term does not include petroleum, nuclear, natural gas, or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy.

"Advanced cleaner energy" means electricity generated using an advanced cleaner energy system. "Advanced cleaner energy system" means any of the following:

- A gasification facility.

- An industrial cogeneration facility.
- A coal-fired electric generating facility if at least 85% of the carbon dioxide emissions are captured and permanently geologically sequestered.
- An electric generating facility or system that uses technologies not in commercial operation on October 6, 2008.

The bill would refer to any cogeneration facility rather than in industrial one. "Cogeneration facility" would mean a facility that produces both electricity and another form of useful thermal energy, such as heat or steam, in a way that is more efficient than the separate production of those forms of energy.

Under the bill, a coal-fired electric generating facility also would be included in the definition if at least 85% of the emissions were used for other commercial or industrial purposes that did not result in release of carbon dioxide to the atmosphere. With regard to technologies not in commercial operation on October 6, 2008, in order to be considered an advanced cleaner energy system, the bill would require the PSC to determine that the technology had carbon dioxide emissions benefits or would significantly reduce other regulated air emissions. The bill also would include in the definition a hydroelectric pumped storage facility.

#### Rate-Regulated Electric Provider: Renewable Energy Plan Compliance Cost Recovery

The Act required electric providers to file with the PSC a renewable energy plan describing how the providers would meet the Act's renewable energy standards. An electric provider may not comply with the standards to the extent that recovery of the incremental cost of compliance will have a retail rate impact that exceeds the following:

- \$3 per month per residential customer meter.
- \$16.58 per month per commercial secondary customer meter.
- \$187.50 per month per commercial primary or industrial customer meter.

Subject to these rate impact limits, the PSC must consider all actual costs reasonably and prudently incurred in good faith to implement a PSC-approved renewable energy plan by a rate regulated provider to be a cost of service to be recovered by the provider. Also subject to the rate impact limits, a rate-regulated provider must recover through its retail electric rates all of the incremental costs of compliance during the 20-year period beginning when the provider's plan is approved and all reasonable and prudent ongoing costs of compliance during and after that period. Under the bill, these requirements would apply regardless of the rate impact limits. Also, for a rate-regulated provider, the PSC would have to determine the appropriate charges, which would have to be included in the provider's tariffs, to permit recovery of the incremental cost of compliance.

The Act requires the recovery to include the provider's authorized rate of return on equity for approved costs, which remain fixed at the rate of return and debt-to-equity ratio that was in effect in the provider's base rates when the renewable energy plan was approved. Under the bill, the recovery also would have to include costs associated with a facility approved for cost recovery before the bill's effective date.

If an electric provider's incremental costs of compliance with the renewable energy standard in any given month during the 20-year period beginning when the provider's renewable energy plan is approved by the PSC exceed the adjusted revenue recovery mechanism and in excess of the balance of any accumulated reserve funds, subject to the minimum balance established under the Act, the provider immediately must notify the PSC. The PSC promptly must commence a contested case hearing and modify the revenue recovery mechanism so that the minimum balance is restored. If the PSC determines, however, that recovery of the incremental costs of compliance would otherwise exceed the prescribed maximum retail rate impacts, it must set the revenue recovery mechanism for that provider to correspond to those

rate impacts. Excess costs must be accrued and deferred for recovery. Within the 20-year period after a rate-regulated provider's plan is approved, the PSC must determine the amount of deferred costs to be recovered under the recovery mechanism and the recovery period, which may not extend more than five years beyond the expiration of the 20-year period. The recovery of excess costs may not exceed the retail rate impact limits for each customer class. The bill would delete these provisions.

The Act provides that after achieving compliance with the renewable energy standard for 2015, the actual costs reasonably and prudently incurred to continue to comply with renewable energy provisions both during and after the conclusion of the 20-year period after the provider's plan was approved by the PSC are considered costs of service. The PSC must determine a mechanism for a rate-regulated provider to recover these costs in its retail electric rates, subject to the prescribed retail rate impact limits. The bill would eliminate the reference to the rate impact limits.

#### Voluntary Green Pricing Program

The bill would require an electric provider to offer to its customers the opportunity to participate in a voluntary green pricing program, under which the customer could specify, from the options made available by the provider, the percentage of electricity provided to the customer that would be renewable energy. The program, including the rates paid for renewable energy, would have to be approved by the PSC. The customer would be responsible for any additional costs incurred and would accrue any additional savings realized by the provider as a result of providing the customer with a higher percentage of renewable energy than provided to customers that did not participate in the program.

If an electric provider had not yet fully recovered the incremental costs of compliance with the renewable energy standard, a customer that received at least 50% of that customer's average monthly electricity consumption through the program would be exempt from paying charges for incremental costs of compliance. Also, before entering into an agreement with a customer to participate in an approved green pricing program with a customer that would receive less than 50% of average monthly consumption through the program, the provider would have to notify the customer that the customer would be responsible for the full applicable charges under the revenue recovery mechanism and under the voluntary renewable energy program.

#### Energy Optimization/Waste Reduction

Electricity Plan. The Act allowed a rate-regulated electric provider to file a proposed energy optimization plan with the PSC by March 3, 2009, and a member-regulated cooperative electric utility to file such a plan by April 2, 2009. The overall goal of an energy optimization plan is to reduce the future costs of provider service to customers, in particular by delaying the need for constructing new electric generating facilities and thereby protecting consumers from incurring the costs. Under the bill, these energy optimization plans would remain in effect, subject to any amendments, as waste reduction plans. All of the provisions that apply to energy optimization plans currently would apply to waste reduction plans. The transition from energy optimization to waste reduction would take effect 90 days after the bill took effect. All of the provisions pertaining to electricity waste reduction plans would be repealed on January 1, 2019.

Natural Gas Plan. The bill states that a natural gas provider was required to file a proposed energy optimization plan with the PSC by March 3, 2009, and specifies that those plans would remain in effect as waste reduction plans.

Under the bill, the overall goal of a waste reduction plan would be to reduce the future costs of natural gas provider service to customers. The bill would establish requirements for a

natural gas waste reduction plan similar to those that apply to an electricity waste reduction plan.

A natural gas waste reduction plan could do either or both of the following:

- Use educational programs designed to alter consumer behavior or any other measures that could reasonably be used to meet the plan's goal.
- Propose to the PSC measures that were designed to meet the plan's goal and that provided additional customer benefits.

Expenditures for these programs and measures could not exceed 3% of the costs of implementing the natural gas waste reduction plan. (Similar provisions apply to electricity waste reduction plans.)

All of the provisions regarding natural gas waste reduction plans would take effect on January 1, 2019.

Approval of Energy Optimization/Waste Reduction Plans. The Act contains provisions applicable to the filing, review, and approval of a provider's energy optimization plan. The bill would refer to a waste reduction plan rather than an energy optimization plan, and specifies that these provisions would apply to a natural gas provider's plan.

Every two years after initial approval of a natural gas waste reduction plan, the PSC would have to review it by conducting a contested case hearing under the Administrative Procedures Act. After the hearing, the Commission would have to approve the plan with any changes consented to by the natural gas provider, or reject the plan and any proposed amendments.

If a natural gas provider proposed to amend its plan at a time other than during the biennial review process, the provider would have to file the proposed amendment with the PSC. After the hearing and within 90 days after the amendment was filed, the Commission would have to approve the plan with any changes consented to by the provider or reject the plan and any proposed amendments.

If the PSC rejected a proposed plan or amendment, it would have to explain in writing the reasons for its determination.

These revisions would take effect on January 1, 2019.

Provisions Applicable to all Waste Reduction Plans. The bill would require a provider's energy waste reduction plan to be filed with and reviewed, approved or rejected, and enforced by the PSC. The Commission could not approve a proposed waste reduction plan unless it determined that the plan met the utility system resource cost test and was reasonable and prudent. In determining whether the plan was reasonable and prudent, the Commission would have to review each element and consider whether it would reduce the future cost of service for the provider's customers.

Within 270 days after the bill took effect, an electric provider would have to file with the PSC a proposed plan amendment to reflect the phaseout of the energy waste reduction standard (described below).

If the PSC rejected a proposed plan or amendment, it would have to explain in writing the reason for its determination.

All of these provisions would take effect 90 days after the bill's effective date, and would be repealed on January 1, 2019.

Provider Incentives. Under the Act, the energy optimization plan of a provider whose rates are regulated by the PSC may authorize a commensurate financial incentive for the provider for exceeding the energy optimization performance standard. Payment of such an incentive is subject to the PSC's approval.

The total amount of the incentive may not exceed the lesser of 25% of the net cost reductions experienced by the provider's customers as a result of plan implementation, or 15% of the provider's actual energy efficiency program expenditures for the past year. The bill would refer to waste reduction rather than optimization and efficiency. Additionally, the bill would revise the amount of the incentive to not more than 20% of the provider's actual waste reduction program expenditures for the year.

These revisions would take effect 90 days after the bill's enactment.

Waste Reduction Energy Savings Goals. The Act prescribed incremental energy savings that an electric provider's energy optimization programs had to collectively achieve annually beginning in 2008. The prescribed annual incremental energy savings in 2015 and each year after that are equivalent to 1% of total annual retail electricity sales in megawatt hours in the preceding year. Under the bill, this savings amount would apply every year from 2015 through 2018.

The bill would retain an annual incremental energy savings requirement for a natural gas provider's plan of 0.75% of total annual retail sales in the preceding year, but specifies that this would apply subject to the sales revenue expenditure limits prescribed in the Act. (A natural gas provider may not annually spend more than 2% of total retail sales revenue in the preceding two years to comply with the energy optimization performance standard without specific approval from the PSC. The bill would repeal this limit on January 1, 2019.)

The Act provides for an electric provider's substitution of certain renewable energy credits, advanced cleaner energy credits, load management, or a combination of these methods for energy optimization credits otherwise required to meet up to 10% of the energy optimization performance standard, if approved by the PSC. The bill would delete these provisions.

These revisions would take effect 90 days after the bill was enacted. All of these provisions would be repealed on January 1, 2019.

Natural Gas Energy Savings. Beginning in 2019 and subject to the sales revenue expenditure limits, a natural gas provider's energy waste reduction program would have to achieve annual incremental energy savings equivalent to 0.75% of total annual retail natural gas sales in the preceding year. The incremental savings for a year would have to be determined by a natural gas provider by adding the energy savings expected to be achieved by waste reduction measures implemented during that year under any energy efficiency programs consistent with the provider's energy waste reduction plan.

For purposes of the calculations, total annual retail natural gas sales in a year would have to be based on one of two mechanisms at the option of the natural gas provider as specified in its energy waste reduction plan.

All of these provisions would take effect on January 1, 2019.

Alternative Waste Reduction Standards. If, over a two-year period, a natural gas provider could not achieve the energy waste reduction standard in a cost-effective manner, the provider could petition the PSC to establish alternative energy waste reduction standards. A petition would have to identify the provider's efforts to meet the standard, explain why the provider could not achieve the standard reasonable and cost-effectively, and propose a revised energy waste reduction to be achieved.

If the PSC determined, based on a review of the petition, that the provider had been unable to reasonably and cost-effectively achieve the energy waste reduction standard, the Commission would have to revise the standard as applied to that provider to a level that could reasonably and cost-effectively be achieved.

These provisions would take effect 90 days after the bill's effective date.

The Act contains similar provisions allowing a provider to petition the PSC for alternative energy optimization standards that apply to electric providers that serve a maximum of 200,000 Michigan customers and had average rates for residential customers using 1,000 kilowatt hours per month for all electric utilities in the State, according to a 2007 PSC compilation. The bill would refer to waste reduction rather than energy optimization in these provisions. These changes would take effect 90 days after the bill was enacted. The provisions concerning electric providers would be repealed on January 1, 2019.

Energy Waste Reduction Credits. The Act provides for one energy optimization credit to be granted to an electric provider for each megawatt hour of annual incremental energy savings achieved through energy optimization. The Act provides for the carrying forward of unused credits as well as their expiration upon use, and requires the PSC to establish a credit tracking system. The bill would refer to waste reduction rather than optimization. These changes would take effect 90 days after the bill's enactment. All of the provisions related to energy waste reduction credits would be repealed on January 1, 2019.

Waste Reduction Plan Cost Recovery. The PSC must allow a rate-regulated provider to recover the actual costs of implementing its approved energy optimization plan (waste reduction plan, under the bill).

Costs must be recovered from all natural gas customers and from residential electric customers by volumetric charges, from all other metered electric customers by per-meter charges, and from unmetered electric customers by an appropriate charge, applied to utility bills as an itemized charge. Under the bill, costs would have to be recovered from all customers by volumetric charges or fixed, per-meter charges, which could vary by rate class. These charges could not be itemized on utility bills.

These changes would take effect 90 days after the bill took effect, and all of these provisions would be repealed on January 1, 2019. Beginning on that date, similar provisions would continue to apply to natural gas providers. Additionally, for customers of a natural gas provider with an aggregate billing demand of more than 100,000 decatherms or equivalent MCFs for all sites in the utility's service territory, the cost recovery could not exceed 1.7% of total retail sales revenue for that customer class. For residential customers, the cost recovery could not exceed 2.2% of total retail sales revenue for that customer class.

Also, beginning on January 1, 2019, upon petition by a rate-regulated natural gas provider, the PSC would have to authorize the provider to capitalize all energy efficiency and conservation equipment, materials, and installation costs with an expected economic life greater than one year incurred in implementing its energy waste reduction plan, including the costs paid to third parties such as customer rebates and incentives. The provider also would have to propose depreciation treatment with respect to its capitalized costs in its plan, and the PSC would have to order reasonable depreciation treatment related to these costs. A natural gas provider could not capitalize payments made to an independent energy waste reduction program administrator.

The established funding level for low-income residential programs would have to be provided from each customer rate class in proportion to that rate class's funding of the natural gas



provider's total energy waste reduction programs. Charges would have to be applied to distribution customers regardless of the source of their natural gas supply.

The PSC would have to authorize a natural gas provider that spent a minimum 0.5% of total natural gas retail sales revenue in a year on PSC-approved energy waste reduction programs to implement a symmetrical revenue decoupling true-up mechanism that adjusted for sales volumes that were above or below the projected levels that were used to determine the revenue requirement authorized in the provider's most recent rate case.

Effective January 1, 2019, a natural gas provider could not spend in any year more than 2% of total utility retail sales revenue for the second year preceding to comply with the energy waste reduction performance standard without specific approval from the PSC.

Waste Reduction Program Administrator. Many of the Act's energy optimization requirements do not apply to an electric or natural gas provider that pays 2% of total sales revenue each year to an independent energy optimization program administrator selected by the PSC. The bill would revise the percentage. For a natural gas provider, payment to the administrator would have to equal 2% of total retail sales revenue for the second year preceding. The percentage for an electric provider would be as follows:

- For each year through 2016, 2% of total retail sales revenue for 2014.
- For 2017, 1% of total retail sales revenue for 2015.
- For 2018, 1% of total retail sales revenue for 2016.

These changes would take effect 90 days after the bill was enacted.

Under the Act, an alternative compliance payment received from a provider by the program administrator must be used to administer the provider's energy efficiency program. The PSC must allow a provider to recover such a payment.

All of the provisions related to a waste reduction program run by an administrator would be repealed on January 1, 2019. The bill, however, would reenact similar provisions applicable specifically to a natural gas provider, which would take effect on that date.

Self-Directed Waste Reduction Plan. The Act exempts certain commercial and industrial electric customers that implement a self-directed plan from energy optimization charges. All of these provisions would be repealed on January 1, 2019.

PSC Responsibilities. The Act requires the PSC to promote load management in appropriate circumstances. Under the bill, this would include encouraging the establishment of load management programs in which an electric provider could remotely shut down air conditioning or other energy intensive systems of participating customers. Provider participation and customer enrollment in such programs would have to be voluntary. The programs could provide incentives for customer participation and would have to include customer protection provisions as required by the PSC.

The bill would delete a requirement that the PSC do all of the following:

- Promote energy efficiency and conservation.
- Actively pursue increasing public awareness of energy conservation and efficiency.
- Actively engage in energy conservation and efficiency efforts with providers.
- Engage in regional efforts to reduce demand for energy through conservation and efficiency.
- Submit to the Legislature an annual report on the effort to implement energy conservation and efficiency programs or measures.

These revisions would take effect 90 days after the bill was enacted.

Natural Gas Provider Report. Under the bill, by a time determined by the PSC, each natural gas provider would have to submit to the Commission an annual report that provided information related to the actions taken by the provider to comply with the energy waste reduction standards. The report would have to include specific information.

The PSC would have to submit to the standing committees of the Senate and House of Representatives with primary responsibility for energy and environmental issues a report that evaluated and determined whether the Act's energy waste reduction provisions had been cost-effective. The report also would have to make recommendations to the Legislature. The report could be combined with the required annual report summarizing the PSC's activities during the preceding year.

If the PSC determined that a natural gas provider's energy waste reduction program had not been cost-effective, the provider's program would be suspended beginning 180 days after the date of the determination. In that case, the provider would have to maintain cumulative incremental energy savings in subsequent years at the level actually achieved during the year before the year in which the PSC's determination was made. The provider could not impose energy waste reduction charges in subsequent years except to the extent necessary to recover unrecovered waste reduction expenses incurred before suspension of the program.

These provisions would take effect on January 1, 2019.

Civil Action. The bill would allow the Attorney General or any customer of a member-regulated cooperative electric utility to commence a civil action for injunctive relief against the utility if it failed to meet the applicable energy waste reduction requirements or a related order or rule.

The bill would prescribe requirements for notice to the defendant and a good faith attempt to resolve the dispute before the complaint could be filed.

Upon receiving a complaint by a customer of a municipally owned electric utility or upon the PSC's own motion, the Commission could review allegations that the utility had violated the waste reduction requirements or a related order or rule. If the PSC found, after notice and hearing, that the utility had committed a violation, the Commission would have to advise the Attorney General. The Attorney General could commence a civil action for injunctive relief against the utility.

In issuing a final order regarding an alleged violation by a cooperative or municipally owned electric utility, the court could award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party.

These provisions would take effect 90 days after the bill was enacted. They would be repealed on January 1, 2019.

#### Exemption from Energy Standards

The Act provides that electricity or natural gas used in the installation, operation, or testing of any pollution control equipment is exempt from the requirements of and calculations of compliance required under the Act's energy standards. The bill would eliminate the exemption for electricity effective January 1, 2019.

## Distributed Generation & Net Metering

Within 90 days after the bill's effective date, the PSC would have to establish a distributed generation program by order. A customer of any class would be eligible to interconnect an eligible electric generator with the customer's local electric utility and operate it in parallel with the distribution system. The program would have to be designed for a period of at least 10 years and limit each customer to generation capacity designed to meet up to 110% of the customer's average annual electricity consumption.

(Similar requirements apply to a net metering program authorized under the current law, but each customer's generation capacity is limited to the customer's electric needs.)

Currently, an electric utility or alternative electric supplier (AES) is not required to allow for net metering that is greater than 1% of its in-State peak load for the preceding calendar year. Under the bill, an electric utility or AES would not have to allow for distributed generation that was greater than 10% of its average in-State peak load for the preceding five years. The 10% limit would have to be allocated as follows:

- Not more than 5% for customers with a generator capable of generating a maximum of 20 kilowatts.
- Not more than 2.5% for customers with a generator capable of generating more than 20 but not more than 150 kilowatts.
- Not more than 2.5% for customers with a generator capable of generating more than 150 kilowatts.

A number of provisions applicable to the net metering program would apply to the distributed generation program under the bill. If necessary to promote reliability or safety, the PSC could promulgate rules that required the use of inverters that performed specific automated grid-balancing functions to integrate distributed generation onto the electric grid. Inverters that interconnected distributed generation resources could be owned and operated by electric utilities.

An electric utility or AES could charge a maximum fee of \$50 to process an application to participate in the distributed generation program. The customer would have to pay all interconnection costs.

Electric meters would have to be used to determine the amount of a customer's electricity use in each billing period and the amount of electricity produced by the generator on the customer's site. An electric utility would have to give its customers participating in the distributed generation program, at cost, a meter or meters capable of measuring the flow of energy in both directions.

A customer participating in the program would have to purchase all of the electricity the customer consumed from the electric utility or AES at the applicable retail electricity rate and charges. If participating in net metering, the customer would have to receive a bill credit for all electricity produced by the generator at the customer's site. If the credit exceeded the charges for the customer's consumption, the credit would have to carry over to subsequent billing periods indefinitely until fully used to offset the consumption charges. Upon approval by the PSC, an electric utility or AES could charge a minimum bill amount to support a customer's use of the electric grid for any month in which the customer's monthly credit exceeded the customer's consumption charges.

Distributed generation program customers would not receive credits for electric utility transmission or distribution charges.

A customer would own any renewable energy credits granted for electricity generated on the customer's site under the program.

### Residential Energy Improvements

The bill would add Part 7 to the Act to authorize a provider to establish a residential energy projects program. Under such a program, if a record owner of privately owned residential real property in the provider's service territory obtained financing or refinancing of an energy project on the property from a commercial lender or other legal entity, the loan would be repaid through itemized charges on the provider's utility bill for that property. The charges could cover the cost of materials and labor necessary for installation, home energy audit costs, permit fees, inspection fees, application and administrative fees, bank fees, and all other fees that could be incurred by the record owner for the installation on a specific or pro rata basis, as determined by the provider.

"Energy project" would mean the installation or modification of an energy waste reduction improvement or the acquisition, installation, or improvement of a clean energy system.

A residential energy projects program would have to be established and implemented pursuant to a plan approved by the PSC. A provider seeking to establish a program would have to file a proposed plan with the Commission. A plan would have to include the following:

- The estimated costs of program administration.
- Whether the program would be administered by a third party.
- An application process and eligibility requirements for a record owner to participate in the program.
- An application form.
- A description of any fees to cover application, administration, or other program costs to be charged to a participating owner.
- Provisions for billing customers any fees and the monthly installment payments as a per-meter charge on the bill for electric or natural gas services.
- Provisions for marketing and participant education.

The PSC could not approve a provider's proposed plan unless it determined that the plan was reasonable and prudent. If the PSC rejected a proposed plan, it would have to explain its reasons in writing. Every four years after initial approval of a plan, the PSC would have to review it.

A baseline home energy audit would have to be conducted before an energy project was undertaken. After the project was completed, the provider would have to obtain verification that it was properly installed and was operating as intended.

Electric or natural gas service could be shut off for nonpayment of the per-meter charge in the same manner and pursuant to the same procedures as used to enforce nonpayment of other charges for the provider's electric or natural gas service. If notice of a loan under the program were recorded with the county register of deeds, the obligation to pay the charge would run with the land and be binding on future customers contracting for electric or natural gas service to the property.

The term of a loan paid through the program could not exceed the anticipated useful life of the energy project financed by the loan or 180 months, whichever was less. The loan would have to be repaid in monthly installments.

The PSC would have to promulgate rules to implement Part 7 within one year after the bill took effect. Every five years after promulgating the rules, the PSC would have to submit to the standing committees of the Legislature with primary responsibility for energy issues a

report on the implementation of Part 7 and any recommendations for legislation to amend it. The report could be combined with the PSC's annual report summarizing its activities over the preceding year.

MCL 460.1001 et al.

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the Public Service Commission within the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of government. The bill would require the PSC to approve energy waste reduction plans for natural gas providers initially, and then every two years. This would result in some increased costs for the PSC, which would in the long-term be counteracted to an unknown extent by the sunset of energy waste reduction plans for electricity providers in 2019. The bill also would require the PSC to review annual reports from natural gas providers regarding actions taken to comply with energy waste reduction standards, which would create some new costs for the PSC.

In addition, the bill would require the PSC to promulgate rules related to the distributed generation and net metering program, which would lead to some likely minor costs for the PSC.

Finally, the bill would require the PSC to review residential energy project program plans, review those plans every four years, and establish rules regarding the establishment of these programs. These requirements would result in some new, likely minor costs for the PSC.

Fiscal Analyst: Josh Sefton

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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.