

HOUSE BILL No. 4302

March 5, 2015, Introduced by Rep. Nesbitt and referred to the Committee on Energy Policy.

A bill to amend 2008 PA 295, entitled
"Clean, renewable, and efficient energy act,"
by amending sections 5 and 33 (MCL 460.1005 and 460.1033).

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.

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

9 (iv) Except as used in subpart B of part 2, an alternative
10 electric supplier ~~licensed under section 10a~~ **AS THAT TERM IS**

1 **DEFINED IN SECTION 10G** of 1939 PA 3, MCL ~~460.10a~~-**460.10G**.

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

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

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

10 (c) "Energy conservation" means the reduction of customer
11 energy use through the installation of measures or changes in
12 energy usage behavior. Energy conservation does not include the use
13 of advanced cleaner energy systems.

14 (d) "Energy efficiency" means a decrease in customer
15 consumption of electricity or natural gas achieved through measures
16 or programs that target customer behavior, equipment, devices, or
17 materials without reducing the quality of energy services.

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

20 (i) Energy efficiency.

21 (ii) Load management, to the extent that the load management
22 reduces overall energy usage.

23 (iii) Energy conservation, but only to the extent that the
24 decreases in the consumption of electricity produced by energy
25 conservation are objectively measurable and attributable to an
26 energy optimization plan.

27 (f) Energy optimization does not include electric provider

1 infrastructure projects that are approved for cost recovery by the
2 commission other than as provided in this act.

3 (g) "Energy optimization credit" means a credit certified
4 pursuant to section 87 that represents achieved energy
5 optimization.

6 (h) "Energy optimization plan" or "EO plan" means a plan under
7 section 71.

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

10 (j) "Energy ~~star~~—**STAR**" means the voluntary partnership among
11 the United States ~~department~~—**DEPARTMENT** of ~~energy~~,—**ENERGY**, the
12 United States ~~environmental protection agency~~,—**ENVIRONMENTAL**
13 **PROTECTION AGENCY**, product manufacturers, local utilities, and
14 retailers to help promote energy efficient products by labeling
15 with the ~~energy star~~—**ENERGY STAR** logo, educate consumers about the
16 benefits of energy efficiency, and help promote energy efficiency
17 in buildings by benchmarking and rating energy performance.

18 (k) "Federal approval" means approval by the applicable
19 regional transmission organization or other federal energy
20 regulatory commission approved transmission planning process of a
21 transmission project that includes the transmission line. Federal
22 approval may be evidenced in any of the following manners:

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

26 (ii) The applicable regional transmission organization has
27 informed the electric utility, affiliated transmission company, or

1 independent transmission company that a transmission project
2 submitted for an out-of-cycle project review has been approved by
3 the applicable regional transmission organization, and the approved
4 transmission project includes the proposed transmission line.

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

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

15 Sec. 33. (1) Subject to subsections (2) and (3), an electric
16 provider that had 1,000,000 or more retail customers in this state
17 on January 1, 2008 shall obtain the renewable energy credits that
18 are necessary to meet the renewable energy credit standard in 2015
19 and thereafter as follows:

20 (a) At the electric provider's option, up to but no more than
21 50% of the renewable energy credits shall be from any of the
22 following:

23 (i) Renewable energy systems that were developed by and are
24 owned by the electric provider. An electric provider shall
25 competitively bid any contract for engineering, procurement, or
26 construction of any new renewable energy systems described in this
27 subdivision. However, an electric provider may consider unsolicited

1 proposals presented to it by a renewable energy system developer
2 outside of a competitive bid process. If the provider determines
3 that such an unsolicited proposal provides opportunities that may
4 not otherwise be available or commercially practical, the provider
5 may enter into a contract with the developer.

6 (ii) Renewable energy systems that were developed by 1 or more
7 third parties pursuant to a contract with the electric provider
8 under which the ownership of the renewable energy system may be
9 transferred to the electric provider, but only after the renewable
10 energy system begins commercial operation. Any such contract shall
11 be executed after a competitive bidding process conducted pursuant
12 to guidelines issued by the commission. However, an electric
13 provider may consider unsolicited proposals presented to it by a
14 renewable energy system developer outside of a competitive bid
15 process. If the provider determines that such an unsolicited
16 proposal provides opportunities that may not otherwise be available
17 or commercially practical, the provider may enter into a contract
18 with the developer. An affiliate of the electric provider may
19 submit a proposal in response to a request for proposals, subject
20 to the code of conduct under section ~~10a(4)~~**10A** of 1939 PA 3, MCL
21 460.10a, and the sanctions for violation of the code under section
22 10c of 1939 PA 3, MCL 460.10c.

23 (b) At least 50% of the renewable energy credits shall be from
24 renewable energy contracts that do not require transfer of
25 ownership of the applicable renewable energy system to the electric
26 provider or from contracts for the purchase of renewable energy
27 credits without the associated renewable energy. A renewable energy

1 contract or contract for the purchase of renewable energy credits
2 under this subdivision shall be executed after a competitive
3 bidding process conducted pursuant to guidelines issued by the
4 commission. However, an electric provider may consider unsolicited
5 proposals presented to it outside of a competitive bid process by a
6 renewable energy system developer that is not affiliated with the
7 electric provider. If the provider determines that such an
8 unsolicited proposal provides opportunities that may not otherwise
9 be available or commercially practical, the provider may enter into
10 a contract with the developer. The contract is subject to review
11 and approval by the commission under section 21. An electric
12 provider or its affiliate may not submit a proposal in response to
13 its own request for proposals under this subdivision. If an
14 electric provider selects a bid other than the lowest price
15 conforming bid from a qualified bidder, the electric provider shall
16 promptly notify the commission. The commission shall determine in
17 the manner provided under section 37 whether the electric provider
18 had good cause for selecting that bid. If the commission determines
19 that the electric provider did not have good cause, the commission
20 shall disapprove the contract.

21 (2) Subsection (1) does not apply to either of the following:

22 (a) Renewable energy credits that are transferred to the
23 electric provider pursuant to section 35(1).

24 (b) Renewable energy credits that are produced or obtained by
25 the electric provider from renewable energy systems for which
26 recovery in electric rates was approved as of the effective date of
27 this act, including renewable energy credits resulting from biomass

1 co-firing of electric generation facilities in existence on the
2 ~~effective date of this act, OCTOBER 6, 2008,~~ except to the extent
3 the number of megawatt hours of electricity annually generated by
4 biomass co-firing exceeds the number of megawatt hours generated
5 during the 1-year period immediately preceding ~~the effective date~~
6 ~~of this act.~~**OCTOBER 6, 2008.**

7 (3) An electric provider shall submit a contract entered into
8 pursuant to subsection (1) to the commission for review and
9 approval. If the commission approves the contract, it shall be
10 considered to be consistent with the electric provider's renewable
11 energy plan. The commission shall not approve a contract based on
12 an unsolicited proposal unless the commission determines that the
13 unsolicited proposal provides opportunities that may not otherwise
14 be available or commercially practical.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. 4298 (request no.
19 01467'15) of the 98th Legislature is enacted into law.