

HOUSE BILL No. 5861

April 24, 2018, Introduced by Reps. Glenn, Rabhi, Barrett and Dianda and referred to the Committee on Energy Policy.

A bill to amend 2008 PA 295, entitled
"Clean and renewable energy and energy waste reduction act,"
by amending section 22 (MCL 460.1022), as added by 2016 PA 342, and
by adding part 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) Renewable energy plans and associated revenue
2 recovery mechanisms filed by an electric provider, approved under
3 former section 21 or 23 or found to comply with this act under
4 former section 25, and in effect on ~~the effective date of the 2016~~
5 ~~amendatory act that added this section,~~ **APRIL 20, 2016**, remain in
6 effect, subject to amendments as provided for under subsections (3)
7 and (4).

8 (2) For an electric provider whose rates are regulated by the
9 commission, amended renewable energy plans shall establish a

1 nonvolumetric mechanism for the recovery of the incremental costs
2 of compliance within the electric provider's customer rates. The
3 revenue recovery mechanism shall not result in rate impacts that
4 exceed the monthly maximum retail rate impacts specified under
5 section 45. The revenue recovery mechanism is subject to adjustment
6 under sections 47(4) and 49.

7 (3) ~~Within 1 year after the effective date of the 2016~~
8 ~~amendatory act that added this section, BY APRIL 20, 2018, the~~
9 commission shall review each electric provider's plan pursuant to a
10 filing schedule established by the commission. For an electric
11 provider whose rates are regulated by the commission, the
12 commission shall conduct a contested case hearing on the plan
13 pursuant to the administrative procedures act of 1969, 1969 PA 306,
14 MCL 24.201 to 24.328. After the hearing, the commission shall
15 approve, with any changes consented to by the electric provider, or
16 reject the plan and any amendments to the plan. For all other
17 electric providers, the commission shall provide an opportunity for
18 public comment on the plan. After the applicable opportunity for
19 public comment, the commission shall determine whether any
20 amendment to the plan proposed by the provider complies with this
21 act. For alternative electric suppliers, the commission shall
22 approve, with any changes consented to by the electric provider, or
23 reject any proposed amendments to the plan. For cooperative
24 electric utilities and municipally owned utilities, the proposed
25 amendment is adopted if the commission determines that it complies
26 with this act.

27 (4) If an electric provider proposes to amend its plan after

1 the review process under subsection (3), **WHETHER AS REQUIRED UNDER**
2 **PART 8 OR OTHERWISE**, the electric provider shall file the proposed
3 amendment with the commission. For an electric provider whose rates
4 are regulated by the commission, if the proposed amendment would
5 modify the revenue recovery mechanism, the commission shall conduct
6 a contested case hearing on the amendment pursuant to **CHAPTER 4 OF**
7 the administrative procedures act of 1969, 1969 PA 306, MCL ~~24.201~~
8 ~~to 24.328.~~ **24.271 TO 24.287**. After the hearing and within 90 days
9 after the amendment is filed, the commission shall, **SUBJECT TO**
10 **SUBSECTION (5)**, approve, with any changes consented to by the
11 electric provider, or reject the plan and the proposed amendment or
12 amendments to the plan. For all other electric providers, the
13 commission shall provide an opportunity for public comment on the
14 amendment. After the applicable opportunity for public comment and
15 within 90 days after the amendment is filed, the commission shall
16 determine whether the proposed amendment to the plan complies with
17 this act. For alternative electric suppliers, the commission shall
18 approve, with any changes consented to by the electric provider, or
19 reject any proposed amendments to the plan. For cooperative
20 electric utilities and municipally owned utilities, the proposed
21 amendment is adopted if the commission determines that it complies
22 with this act.

23 (5) For an electric provider whose rates are regulated by the
24 commission, the commission shall approve the plan or amendments to
25 the plan if the commission determines:

26 (a) That the plan is reasonable and prudent. In making this
27 determination, the commission shall take into consideration

1 projected costs and whether or not projected costs in prior plans
2 were exceeded.

3 (b) That the plan is consistent with the purpose and goal set
4 forth in section 1(2) and (3) and meets the renewable energy credit
5 standard through 2021.

6 **(C) THAT THE PLAN COMPLIES WITH THIS ACT.**

7 (6) If the commission rejects a proposed plan or amendment
8 under this section, the commission shall explain in writing the
9 reasons for its determination.

10 **PART 8 COMMUNITY RENEWABLE ENERGY GARDENS**

11 **SEC. 231. AS USED IN THIS PART:**

12 **(A) "COMMUNITY RENEWABLE ENERGY GARDEN" OR "GARDEN" MEANS A**
13 **RENEWABLE ENERGY ELECTRIC GENERATION SYSTEM THAT MEETS ALL OF THE**
14 **FOLLOWING CONDITIONS:**

15 **(i) THE SYSTEM HAS A GENERATING CAPACITY OF 5 MEGAWATTS OR**
16 **LESS.**

17 **(ii) THE SYSTEM IS CONNECTED TO THE ELECTRIC DISTRIBUTION GRID**
18 **SERVING THIS STATE.**

19 **(iii) THE SYSTEM HAS 10 OR MORE SUBSCRIBERS.**

20 **(iv) NO SUBSCRIBER HOLDS MORE THAN A 40% PROPORTIONAL INTEREST**
21 **IN THE OUTPUT OF THE SYSTEM.**

22 **(v) AT LEAST 40% OF THE SYSTEM'S SUBSCRIPTIONS ARE FOR 25**
23 **KILOWATTS OR LESS.**

24 **(vi) THE SYSTEM IS LOCATED IN THE SERVICE TERRITORY OF AN**
25 **ELECTRIC PROVIDER FILING A PLAN UNDER SECTION 235.**

26 **(vii) THE SYSTEM IS LOCATED ON A SINGLE PARCEL OF LAND.**

27 **(B) "COOPERATIVE SUBSCRIBER ORGANIZATION" MEANS A GROUP OF**

1 SUBSCRIBERS ORGANIZED UNDER THE CONSUMER COOPERATIVE ACT, CHAPTER
2 11 OF THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL 450.3100 TO
3 450.3192, FOR THE PURPOSES OF OWNING OR CREATING A COMMUNITY
4 RENEWABLE ENERGY GARDEN.

5 (C) "GARDEN OWNER" MEANS A COOPERATIVE SUBSCRIBER ORGANIZATION
6 OR OTHER PERSON THAT OWNS THE COMMUNITY RENEWABLE ENERGY GARDEN.

7 (D) "LOW-INCOME CUSTOMER" MEANS INDIVIDUALS OR FAMILIES WHOSE
8 INCOME DOES NOT EXCEED THE ELIGIBILITY THRESHOLD SET BY THE LOW-
9 INCOME HOME ENERGY ASSISTANCE ACT OF 1981, PUBLIC LAW 97-35.

10 (E) "LOW-INCOME SERVICE ORGANIZATION" MEANS A NONPROFIT
11 ORGANIZATION OR GOVERNMENTAL AGENCY PROVIDING SERVICES TO
12 INDIVIDUALS OR FAMILIES WHOSE ELIGIBILITY FOR SERVICES IS
13 CONTINGENT ON HAVING AN INCOME BELOW A CERTAIN THRESHOLD.

14 (F) "SUBSCRIBER" MEANS A PERSON THAT IS A RETAIL CUSTOMER OF
15 AN ELECTRIC PROVIDER AND WHO IS A PARTY TO 1 OR MORE SUBSCRIPTIONS
16 TO A COMMUNITY RENEWABLE ENERGY GARDEN.

17 (G) "SUBSCRIPTION" MEANS A CONTRACT BETWEEN A GARDEN OWNER AND
18 A RETAIL CUSTOMER OF AN ELECTRIC PROVIDER ASSIGNING THE CUSTOMER A
19 PROPORTIONAL INTEREST IN THE BENEFICIAL USE OF THE RENEWABLE ENERGY
20 PRODUCED BY A GARDEN, FOR THE PURPOSE OF REDUCING THE CUSTOMER'S
21 RETAIL ELECTRICITY BILL FOR PREMISES IN THE SAME ELECTRIC PROVIDER
22 SERVICE TERRITORY AS THE GARDEN.

23 (H) "UNSUBSCRIBED PORTION" MEANS THE BENEFICIAL USE OF THE
24 RENEWABLE ENERGY PRODUCED BY A GARDEN IN EXCESS OF THAT ASSIGNED TO
25 SUBSCRIBERS.

26 SEC. 232. (1) A SUBSCRIPTION SHALL BE SIZED TO REPRESENT AT
27 LEAST 100 WATTS OF THE COMMUNITY RENEWABLE ENERGY GARDEN'S

1 GENERATING CAPACITY AND TO SUPPLY NOT MORE THAN 120% OF THE AVERAGE
2 CONSUMPTION OF ELECTRICITY PROVIDED FROM THE DISTRIBUTION GRID TO
3 THE SUBSCRIBER AT THE PREMISES TO WHICH THE SUBSCRIPTION IS
4 ATTRIBUTED.

5 (2) A SUBSCRIPTION MAY BE TRANSFERRED OR ASSIGNED AS SPECIFIED
6 IN THE SUBSCRIPTION CONTRACT TO A COOPERATIVE SUBSCRIBER
7 ORGANIZATION OR TO ANY OTHER PERSON THAT QUALIFIES TO BE A
8 SUBSCRIBER.

9 (3) A GARDEN OWNER MAY BUY BACK A SUBSCRIPTION FROM A
10 SUBSCRIBER AS SPECIFIED IN THE SUBSCRIPTION. THE PROPORTIONAL
11 INTEREST OF A SUBSCRIPTION BECOMES UNSUBSCRIBED WHEN IT IS SOLD
12 BACK TO THE OWNER.

13 (4) A GARDEN OWNER MAY HOLD MORE THAN 40% OF THE PROPORTIONAL
14 INTEREST IN THE GARDEN'S OUTPUT AS AN UNSUBSCRIBED PORTION.

15 SEC. 233. A GARDEN OWNER MAY CONTRACT WITH ANOTHER PERSON TO
16 ADMINISTER OR OPERATE THE GARDEN.

17 SEC. 234. A GARDEN OWNER AND THE OPERATOR AND SUBSCRIBERS OF A
18 COMMUNITY RENEWABLE ENERGY GARDEN ARE NOT PUBLIC UTILITIES SUBJECT
19 TO REGULATION BY THE COMMISSION SOLELY AS A RESULT OF THEIR
20 INTEREST IN THE GARDEN. PRICES PAID FOR SUBSCRIPTIONS IN COMMUNITY
21 RENEWABLE ENERGY GARDENS ARE NOT SUBJECT TO REGULATION BY THE
22 COMMISSION.

23 SEC. 235. (1) THE COMMISSION SHALL ENSURE THAT EACH ELECTRIC
24 PROVIDER PURCHASES ANNUAL AMOUNTS OF ELECTRICITY AND RENEWABLE
25 ENERGY CREDITS FROM COMMUNITY RENEWABLE ENERGY GARDENS IN
26 PROPORTION TO THAT PROVIDER'S 2018 PEAK DEMAND.

27 (2) THE COMMISSION SHALL REQUIRE THAT EACH RENEWABLE ENERGY

1 PLAN PROVIDE FOR THE PURCHASE OF ELECTRICITY GENERATED BY COMMUNITY
2 RENEWABLE ENERGY GARDENS AND ASSOCIATED RENEWABLE ENERGY CREDITS
3 OVER THE PERIOD COVERED BY THE PLAN.

4 (3) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2018
5 AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION SHALL REVIEW
6 EACH ELECTRIC PROVIDER'S RENEWABLE ENERGY PLAN IN THE MANNER
7 PROVIDED IN SECTION 22(3).

8 (4) EVERY 2 YEARS AFTER THE ADOPTION OF AN AMENDED PLAN
9 PURSUANT TO SUBSECTION (2) OR (3), EACH ELECTRIC PROVIDER SHALL
10 AMEND ITS PLAN IN THE MANNER PROVIDED IN SECTION 22(4). THE AMENDED
11 PLAN SHALL SPECIFY MINIMUM PURCHASES, AS DETERMINED BY THE
12 COMMISSION, OF ELECTRICITY THAT THE ELECTRIC PROVIDER SHALL MAKE
13 FROM COMMUNITY RENEWABLE ENERGY GARDENS IN EXCESS OF PURCHASES IN
14 THE PRIOR PLAN PERIOD. IN ADDITION, AS NECESSARY, THE COMMISSION
15 SHALL FORMULATE AND IMPLEMENT POLICIES CONSISTENT WITH THIS PART
16 THAT ENCOURAGE ALL OF THE FOLLOWING:

17 (A) CUSTOMER SUBSCRIPTIONS IN COMMUNITY RENEWABLE ENERGY
18 GARDENS AND OF OTHER FORMS OF DISTRIBUTED GENERATION, TO THE EXTENT
19 THE COMMISSION FINDS THERE IS CUSTOMER DEMAND FOR THOSE
20 SUBSCRIPTIONS.

21 (B) SUBSCRIPTIONS BY RESIDENTIAL CUSTOMERS, INCLUDING LOW-
22 INCOME CUSTOMERS, AGRICULTURAL PRODUCERS, AND LOW-INCOME SERVICE
23 ORGANIZATIONS THAT ARE RETAIL CUSTOMERS, TO THE EXTENT THE
24 COMMISSION FINDS THERE IS DEMAND FOR THOSE SUBSCRIPTIONS.

25 (C) OWNERSHIP OF COMMUNITY RENEWABLE ENERGY GARDENS BY
26 COOPERATIVE SUBSCRIBER ORGANIZATIONS, LOW-INCOME SERVICE
27 ORGANIZATIONS, AND NONPROFIT ENTITIES.

1 (D) DEVELOPMENT OF COMMUNITY RENEWABLE ENERGY GARDENS WITH
2 ATTRIBUTES THAT THE COMMISSION FINDS RESULT IN LOWER OVERALL TOTAL
3 COSTS FOR THE ELECTRIC PROVIDER'S CUSTOMERS.

4 (E) CREATION, FINANCING, AND OPERATION OF COMMUNITY RENEWABLE
5 ENERGY GARDENS OWNED BY COOPERATIVE SUBSCRIBER ORGANIZATIONS.

6 (F) SUBJECT TO SECTION 234, AFFORDABILITY OF SUBSCRIPTIONS FOR
7 ALL RETAIL CUSTOMERS, INCLUDING THOSE RECEIVING ENERGY ASSISTANCE
8 THROUGH THE MICHIGAN LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

9 (G) DEVELOPMENT OF MECHANISMS, INCENTIVES, AND FINANCING
10 OPTIONS TO PROVIDE ECONOMIC BENEFITS TO LOW-INCOME COMMUNITIES
11 THROUGH COMMUNITY RENEWABLE ENERGY GARDENS, INCLUDING, BUT NOT
12 LIMITED TO, SITING GARDENS IN LOW-INCOME COMMUNITIES, CREATING
13 EMPLOYMENT PROGRAMS TO BUILD AND ADMINISTER GARDENS, FOSTERING THE
14 OWNERSHIP OF GARDENS BY INSTITUTIONS AND COOPERATIVE SUBSCRIBER
15 ORGANIZATIONS LOCATED IN LOW-INCOME COMMUNITIES, AND COORDINATING
16 WITH APPROPRIATE GOVERNMENTAL AGENCIES, COMMUNITY STAKEHOLDERS, AND
17 LOW-INCOME SERVICE ORGANIZATIONS.

18 (H) THE ACHIEVEMENT OF AT LEAST 250 MEGAWATTS IN TOTAL
19 COMMUNITY RENEWABLE ENERGY GARDEN GENERATION BY 2025.

20 SEC. 236. (1) THE OWNER OF A COMMUNITY RENEWABLE ENERGY GARDEN
21 SHALL SELL THE ELECTRICAL OUTPUT FROM THE GARDEN ONLY TO AN
22 ELECTRIC PROVIDER SERVING THE GEOGRAPHIC AREA WHERE THE GARDEN IS
23 LOCATED. AFTER A COMMUNITY RENEWABLE ENERGY GARDEN IS PART OF AN
24 ELECTRIC PROVIDER'S RENEWABLE ENERGY PLAN, THE ELECTRIC PROVIDER
25 SHALL PURCHASE ALL OF THE ELECTRICITY GENERATED BY THE GARDEN AND
26 THE ASSOCIATED RENEWABLE ENERGY CREDITS. THE AMOUNT OF ELECTRICITY
27 AND RENEWABLE ENERGY CREDITS GENERATED BY EACH COMMUNITY RENEWABLE

1 ENERGY GARDEN SHALL BE DETERMINED BY A PRODUCTION METER INSTALLED
2 BY THE ELECTRIC PROVIDER OR THIRD-PARTY SYSTEM OWNER AND PAID FOR
3 BY THE OWNER OF THE GARDEN.

4 (2) THE COMMISSION SHALL CREATE UNIFORM STANDARDS AND
5 PROCEDURES FOR INTERCONNECTION OF A COMMUNITY RENEWABLE ENERGY
6 GARDEN TO THE DISTRIBUTION GRID.

7 (3) AN ELECTRIC PROVIDER SHALL PURCHASE THE OUTPUT OF A
8 COMMUNITY RENEWABLE ENERGY GARDEN BY APPLYING A NET METERING CREDIT
9 AGAINST EACH SUBSCRIBER'S ELECTRIC BILL FOR THE PREMISES DESIGNATED
10 IN THE SUBSCRIBER'S SUBSCRIPTION CONTRACT. THE NET METERING CREDIT
11 SHALL BE CALCULATED BY MULTIPLYING THE SUBSCRIBER'S SHARE OF THE
12 ELECTRICITY PRODUCTION FROM THE GARDEN BY THE ELECTRIC PROVIDER'S
13 TOTAL AGGREGATE RETAIL RATE AS CHARGED TO THE SUBSCRIBER, MINUS A
14 REASONABLE CHARGE DETERMINED BY THE COMMISSION PURSUANT TO SECTION
15 22 TO COVER THE PROVIDER'S COSTS OF DELIVERING AN AMOUNT OF
16 ELECTRICITY EQUAL TO THE SUBSCRIBER'S SHARE OF THE ELECTRICITY
17 GENERATED BY THE GARDEN TO THE SUBSCRIBER'S PREMISES,
18 INTERCONNECTING THE GARDEN WITH THE PROVIDER'S DISTRIBUTION GRID,
19 AND ADMINISTERING THE GARDEN'S CONTRACTS AND NET METERING CREDITS.
20 THE COMMISSION SHALL ENSURE THAT THIS CHARGE DOES NOT REFLECT COSTS
21 THAT ARE ALREADY RECOVERED BY THE ELECTRIC PROVIDER FROM THE
22 SUBSCRIBER THROUGH OTHER CHARGES. IF, AND TO THE EXTENT THAT, A
23 SUBSCRIBER'S NET METERING CREDIT EXCEEDS THE SUBSCRIBER'S ELECTRIC
24 BILL IN ANY BILLING PERIOD, THE NET METERING CREDIT SHALL BE
25 CARRIED FORWARD AND APPLIED AGAINST FUTURE BILLS.

26 SEC. 237. (1) THE OWNER OF THE COMMUNITY RENEWABLE ENERGY
27 GARDEN SHALL PROVIDE REAL-TIME GENERATION DATA TO THE ELECTRIC

1 PROVIDER TO FACILITATE INCORPORATION OF THE GARDEN INTO THE
2 ELECTRIC PROVIDER'S OPERATIONS AND TO FACILITATE THE GRANT OF NET
3 METERING CREDITS.

4 (2) THE OWNER OF THE COMMUNITY RENEWABLE ENERGY GARDEN SHALL
5 NOTIFY THE ELECTRIC PROVIDER OF THE CURRENT PROPORTIONAL INTEREST
6 OF EACH SUBSCRIBER FOR USE IN DETERMINING THE NET METERING CREDIT
7 OWED TO EACH SUBSCRIBER. THE INFORMATION SHALL BE PROVIDED IN AN
8 ELECTRONIC FORMAT APPROVED BY THE COMMISSION. THE INFORMATION SHALL
9 BE PROVIDED ON A MONTHLY BASIS, OR MORE FREQUENT BASIS IF REQUIRED
10 BY THE COMMISSION, AND WITHIN A REASONABLE PERIOD OF TIME SET BY
11 THE COMMISSION SO THAT SUBSCRIBER BILLS CAN BE CREDITED AS PROVIDED
12 UNDER SUBSECTION (3).

13 (3) THE ELECTRIC PROVIDER SHALL CREDIT SUBSCRIBERS' BILLS FOR
14 THE BILLING CYCLE IMMEDIATELY FOLLOWING THE CYCLE DURING WHICH THE
15 ENERGY WAS GENERATED BY THE COMMUNITY RENEWABLE ENERGY GARDEN. THE
16 ELECTRIC PROVIDER SHALL ADD, REMOVE, OR CHANGE THE PROPORTIONAL
17 INTEREST OF A SUBSCRIBER WITHIN 1 MONTH AFTER RECEIVING NOTICE FROM
18 THE GARDEN OWNER OF A CHANGE. THE CUSTOMER'S BILL FOR THE
19 IMMEDIATELY FOLLOWING MONTH SHALL REFLECT THE UPDATED INFORMATION.

20 (4) IF THE ELECTRICITY GENERATED BY A GARDEN IS NOT FULLY
21 SUBSCRIBED, THE ELECTRIC PROVIDER SHALL PURCHASE THE UNSUBSCRIBED
22 RENEWABLE ENERGY AND THE RENEWABLE ENERGY CREDITS FROM THE GARDEN
23 OWNER AT THE RATE DETERMINED UNDER SECTION 6V OF 1939 PA 3, MCL
24 460.6V, AND SECTION 210 OF TITLE II OF THE PUBLIC UTILITY
25 REGULATORY POLICIES ACT OF 1978, 16 USC 824A-3.

26 SEC. 238. (1) EACH ELECTRIC PROVIDER SHALL PROVIDE FOR THE
27 INCLUSION OF LOW-INCOME CUSTOMERS AS SUBSCRIBERS TO A COMMUNITY

1 RENEWABLE ENERGY GARDEN IN ITS RENEWABLE ENERGY PLAN. THE ELECTRIC
2 PROVIDER MAY GIVE PREFERENCE TO GARDENS THAT HAVE LOW-INCOME
3 SUBSCRIBERS AND TO GARDENS OWNED BY LOW-INCOME SERVICE
4 ORGANIZATIONS.

5 (2) AN ELECTRIC PROVIDER IS ELIGIBLE FOR THE INCENTIVES AND
6 SUBJECT TO ANY OWNERSHIP LIMITATIONS SET FORTH IN THIS PART FOR
7 INVESTMENTS IN COMMUNITY RENEWABLE ENERGY GARDENS AND MAY RECOVER
8 THROUGH RATES A MARGIN, DETERMINED BY THE COMMISSION, ON PURCHASES
9 OF ENERGY GENERATED BY GARDENS AND ASSOCIATED RENEWABLE ENERGY
10 CREDITS. THESE INCENTIVE PAYMENTS ARE EXCLUDED FROM THE COST
11 CALCULATIONS FOR THE LIFE-CYCLE COST OF RENEWABLE ENERGY UNDER THIS
12 ACT.

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