

HOUSE BILL NO. 4759

June 14, 2023, Introduced by Reps. Coffia, Hoskins, Farhat, O'Neal, Puri, Byrnes, Mentzer, Rheingans, Arbit, Hope, Morse, Young, Wegela, McKinney, Price, Brixie, Glanville, MacDonell, Tyrone Carter, Breen, Stone, Conlin, Churches, Hood, Weiss, Hill, Morgan, Wilson, McFall, Edwards, Paiz, Pohutsky, Aiyash and Whitsett and referred to the Committee on Energy, Communications, and Technology.

A bill to amend 2008 PA 295, entitled
"Clean and renewable energy and energy waste reduction act,"
by amending the title, the heading to subpart A of part 2, and
sections 1, 3, 7, 9, 11, 22, 28, 29, 45, 47, and 49 (MCL 460.1001,
460.1003, 460.1007, 460.1009, 460.1011, 460.1022, 460.1028,
460.1029, 460.1045, 460.1047, and 460.1049), the title and sections
1, 3, 7, 9, 11, 29, 45, 47, and 49 as amended and sections 22 and
28 as added by 2016 PA 342, and by adding sections 32, 34, 50, 51,

52, and 53.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to require certain providers of electric service to
 3 establish and recover costs for renewable energy **and carbon-free**
 4 **energy** programs; to require certain providers of electric or
 5 natural gas service to establish **and recover costs for** energy waste
 6 reduction programs; to authorize the use of certain energy systems
 7 to meet the requirements of those programs; to provide for the
 8 approval of energy waste reduction service companies; to reduce
 9 energy waste by state agencies and the public; to create a wind
 10 energy resource zone board and provide for its power and duties; to
 11 authorize the creation and implementation of wind energy resource
 12 zones; to provide for expedited transmission line siting
 13 certificates; to provide for customer generation and net metering
 14 programs and the responsibilities of certain providers of electric
 15 service and customers with respect to customer generation and net
 16 metering; to provide for fees; to prescribe the powers and duties
 17 of certain state agencies and officials; to require the
 18 promulgation of rules and the issuance of orders; to authorize the
 19 establishment of residential energy improvement programs by
 20 providers of electric or natural gas service; and to provide for
 21 civil sanctions, remedies, and penalties.

22 Sec. 1. (1) This act ~~shall be known and~~ may be cited as the
 23 "clean and renewable energy and energy waste reduction act".

24 (2) The purpose of this act is to promote the development and
 25 use of clean and renewable energy resources and the reduction of
 26 energy waste through programs that will cost-effectively do all of
 27 the following:

1 (a) Diversify the resources used to reliably meet the energy
2 needs of consumers in this state.

3 (b) Provide greater energy security through the use of
4 indigenous energy resources available within the state.

5 (c) Encourage private investment in renewable energy and
6 energy waste reduction.

7 (d) Coordinate with federal regulations to provide improved
8 air quality and other benefits to energy consumers and citizens of
9 this state.

10 ~~(e) Remove unnecessary burdens on the appropriate use of solid
11 waste as a clean energy source.~~

12 ~~(3) As a goal, not less than 35% of this state's electric
13 needs should be met through a combination of energy waste reduction
14 and renewable energy by 2025, if the investments in energy waste
15 reduction and renewable energy are the most reasonable means of
16 meeting an electric utility's energy and capacity needs relative to
17 other resource options. Both of the following count toward
18 achievement of the goal:~~

19 ~~(a) All renewable energy, including renewable energy credits
20 purchased or otherwise acquired with or without the associated
21 renewable energy, and any banked renewable energy credits, that
22 counted toward the renewable energy standard on the effective date
23 of the 2016 amendatory act that added this subsection, as well as
24 renewable energy credits granted as a result of any investments
25 made in renewable energy by the utility or a utility customer after
26 that effective date.~~

27 ~~(b) The sum of the annual electricity savings since October 6,
28 2008, as recognized by the commission through annual reconciliation
29 proceedings, that resulted from energy waste reduction measures~~

1 ~~implemented under an energy optimization plan or energy waste~~
2 ~~reduction plan approved under section 73.~~

3 **(e) Mitigate greenhouse gas emissions and climate change.**

4 Sec. 3. As used in this act:

5 (a) "Applicable regional transmission organization" means a
6 nonprofit, member-based organization governed by an independent
7 board of directors that serves as the regional transmission
8 organization approved by the Federal Energy Regulatory Commission
9 with oversight responsibility for the region that includes the
10 provider's service territory.

11 (b) "Biomass" means any organic matter that is not derived
12 from fossil fuels, that can be converted to usable fuel for the
13 production of energy, and that replenishes over a human, not a
14 geological, time frame, including, but not limited to, all of the
15 following:

16 (i) Agricultural crops and crop wastes.

17 (ii) Short-rotation energy crops.

18 (iii) Herbaceous plants.

19 (iv) Trees and wood, but only if derived from sustainably
20 managed forests or procurement systems, as defined in section 261c
21 of the management and budget act, 1984 PA 431, MCL 18.1261c.

22 (v) Paper and pulp products.

23 (vi) Precommercial wood thinning waste, brush, or yard waste.

24 (vii) Wood wastes and residues from the processing of wood
25 products or paper.

26 (viii) Animal wastes.

27 (ix) Wastewater sludge or sewage.

28 (x) Aquatic plants.

29 (xi) Food production and processing waste.

1 (xii) Organic by-products from the production of biofuels.

2 (c) "Board" means the wind energy resource zone board created
3 under section 143.

4 ~~(d) "Carbon dioxide emissions benefits" means that the carbon~~
5 ~~dioxide emissions per megawatt hour of electricity generated by the~~
6 ~~advanced cleaner energy system are at least 85% less or, for an~~
7 ~~integrated gasification combined cycle facility or an integrated~~
8 ~~pyrolysis combined cycle facility, 70% less than the average carbon~~
9 ~~dioxide emissions per megawatt hour of electricity generated from~~
10 ~~all coal-fired electric generating facilities operating in this~~
11 ~~state on January 1, 2008.~~

12 (d) "Capacity" means the maximum output of electricity that a
13 generator can produce under ideal conditions, generally measured in
14 megawatts or kilowatts.

15 (e) "Carbon capture and storage" means a process that involves
16 collecting carbon dioxide at its source and storing, or
17 sequestering, it to prevent its release into the atmosphere.

18 (f) "Carbon-free energy" means electricity or steam generated
19 using a carbon-free energy system.

20 (g) "Carbon-free energy plan" or, unless the context requires
21 a different meaning, "plan" means a plan approved or found to
22 comply with this act under section 51 with any amendments adopted
23 under this act.

24 (h) "Carbon-free energy portfolio" means the percentage of an
25 electric provider's total retail electric sales consisting of
26 carbon-free energy.

27 (i) "Carbon-free energy standard" means the carbon-free energy
28 portfolio required under section 28(2).

29 (j) "Carbon-free energy system" means a facility, electricity

1 **generation system, or set of electricity generation systems that**
 2 **generates electricity or steam without emitting greenhouse gas.**
 3 **Carbon-free energy system does not include a facility or system**
 4 **that utilizes any of the following:**

5 (i) **Carbon capture and storage.**

6 (ii) **Hydrogen as a fuel source to generate electricity.**

7 (iii) **Natural gas as a fuel source to generate electricity.**

8 (k) ~~(e)~~—"Cogeneration facility" means a facility that produces
 9 both electricity and useful thermal energy, such as heat or steam,
 10 in a way that is more efficient than the separate production of
 11 those forms of energy.

12 (l) ~~(f)~~—"Commission" means the Michigan public service
 13 commission.

14 (m) ~~(g)~~—"Customer meter" means an electric meter of a
 15 provider's retail customer. Customer meter does not include a
 16 municipal water pumping meter or additional meters at a single site
 17 that were installed specifically to support interruptible air
 18 conditioning, interruptible water heating, net metering, or time-
 19 of-day tariffs.

20 (n) **"Distributed generation" means the generation of**
 21 **electricity under the distributed generation program.**

22 (o) ~~(h)~~—"Distributed generation program" means the program
 23 established by the commission under section 173.

24 Sec. 7. As used in this act:

25 (a) "Gasification facility" means a facility ~~located in this~~
 26 ~~state~~ that, using a thermochemical process that does not involve
 27 direct combustion, produces synthesis gas, composed of carbon
 28 monoxide and hydrogen, from carbon-based feedstocks (such as coal,
 29 petroleum coke, wood, biomass, hazardous waste, medical waste,

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

12 **(b) "Greenhouse gas" means carbon dioxide, methane, nitrous**
13 **oxide, hydrofluorocarbons, perfluorocarbons, or sulfur**
14 **hexafluoride.**

15 **(c)** ~~(b)~~—"Incremental costs of compliance" means the net
16 revenue required by an electric provider to comply with the
17 renewable energy standard, calculated as provided under section 47.

18 **(d)** ~~(e)~~—"Independent transmission company" means that term as
19 defined in section 2 of the electric transmission line
20 certification act, 1995 PA 30, MCL 460.562.

21 **(e)** ~~(d)~~—"Integrated gasification combined cycle facility"
22 means a gasification facility that uses a thermochemical process,
23 including high temperatures and controlled amounts of air and
24 oxygen, to break substances down into their molecular structures
25 and that uses exhaust heat to generate electricity.

26 **(f)** ~~(e)~~—"Integrated pyrolysis combined cycle facility" means a
27 pyrolysis facility that uses exhaust heat to generate electricity.

28 **(g)** ~~(f)~~—"LEED" means the leadership in energy and
29 environmental design green building rating system developed by the

1 United States Green Building Council.

2 **(h)** ~~(g)~~—"Load management" means measures or programs that
3 target equipment or behavior to result in decreased peak
4 electricity demand such as by shifting demand from a peak to an
5 off-peak period.

6 **(i)** "Low-income customer" means a customer whose household
7 income does not exceed 200% of the federal poverty level, as
8 published by the United States Department of Health and Human
9 Services, or who is enrolled in any federal, state, or local
10 program with similar income eligibility requirements, including,
11 but not limited to, any of the following:

12 **(i)** A state emergency relief program.

13 **(ii)** The food assistance program administered under the social
14 welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

15 **(iii)** Medicaid.

16 **(j)** "Medicaid" means the medical assistance program
17 established and administered by this state under section 105 of the
18 social welfare act, 1939 PA 280, MCL 400.105.

19 **(k)** ~~(h)~~—"Megawatt", "megawatt hour", or "megawatt hour of
20 electricity", unless the context implies otherwise, includes the
21 steam equivalent of a megawatt or megawatt hour of electricity.

22 **(l)** ~~(i)~~—"Modified net metering" means a utility billing method
23 that applies the power supply component of the full retail rate to
24 the net of the bidirectional flow of kilowatt hours across the
25 customer interconnection with the utility distribution system,
26 during a billing period or time-of-use pricing period. A negative
27 net metered quantity during the billing period or during each time-
28 of-use pricing period within the billing period reflects net excess
29 generation for which the customer is entitled to receive credit

1 under section 177(4). Under modified net metering, standby charges
2 for distributed generation customers on an energy rate schedule
3 shall be equal to the retail distribution charge applied to the
4 imputed customer usage during the billing period. The imputed
5 customer usage is calculated as the sum of the metered on-site
6 generation and the net of the bidirectional flow of power across
7 the customer interconnection during the billing period. The
8 commission shall establish standby charges under modified net
9 metering for distributed generation customers on demand-based rate
10 schedules that provide an equivalent contribution to utility system
11 costs. A charge for net metering and distributed generation
12 customers established pursuant to section 6a of 1939 PA 3, MCL
13 460.6a, shall not be recovered more than once. This subdivision is
14 subject to section 177(5).

15 Sec. 9. As used in this act:

16 (a) "Natural gas provider" means an investor-owned business
17 engaged in the sale and distribution at retail of natural gas
18 within this state whose rates are regulated by the commission.

19 (b) "Pet coke" means a solid carbonaceous residue produced
20 from a coker after cracking and distillation from petroleum
21 refining operations.

22 ~~(c) "Plasma arc gasification facility" means a gasification~~
23 ~~facility that uses a plasma torch to break substances down into~~
24 ~~their molecular structures.~~

25 (c) ~~(d)~~ "Provider" means an electric provider or a natural gas
26 provider.

27 (d) ~~(e)~~ "PURPA" means the public utility regulatory policies
28 act of 1978, Public Law 95-617.

29 (e) ~~(f)~~ "Pyrolysis facility" means a facility that effects

1 thermochemical decomposition at elevated temperatures without the
2 participation of oxygen, from carbon-based feedstocks, including,
3 but not limited to, coal, wood, biomass, industrial waste, or solid
4 waste, but not including pet coke, hazardous waste, coal waste, or
5 scrap tires. Pyrolysis facility includes the transmission lines,
6 gas transportation lines and facilities, and associated property
7 and equipment specifically attributable to the facility. Pyrolysis
8 facility includes, but is not limited to, an integrated pyrolysis
9 combined cycle facility.

10 Sec. 11. As used in this act:

11 (a) "Renewable energy" means electricity or steam generated
12 using a renewable energy system.

13 (b) "Renewable energy contract" means a contract to acquire
14 renewable energy and the associated renewable energy credits from 1
15 or more renewable energy systems.

16 (c) "Renewable energy credit" means a credit granted under a
17 certification and tracking program established under section 41,
18 which represents generated renewable energy.

19 (d) "Renewable energy credit portfolio" means the sum of the
20 renewable energy credits achieved by a provider for a particular
21 year.

22 (e) "Renewable energy credit standard" means a minimum
23 renewable energy credit portfolio required under section ~~28~~**28(1)**
24 or former section 27.

25 (f) "Renewable energy plan" or, **unless the context requires a**
26 **different meaning**, "plan" means a plan approved under section 22 or
27 former section 21 or 23 or found to comply with this act under
28 former section 25, with any amendments adopted under this act.

29 (g) "Renewable energy resource" means a resource that

1 naturally replenishes over a human, not a geological, time frame
 2 and that is ultimately derived from solar power, water power, or
 3 wind power. Renewable energy resource does not include petroleum,
 4 nuclear **fuel**, natural gas, ~~or~~ **coal**, **hydrogen**, **solid waste**, **biofuel**,
 5 **or, except to the extent authorized in a renewable energy plan in**
 6 **effect on the effective date of the amendatory act that added**
 7 **section 51, biomass**. A renewable energy resource comes from the sun
 8 or from thermal inertia of the earth and minimizes the output of
 9 toxic material in the conversion of the energy and includes, but is
 10 not limited to, all of the following:

11 ~~(i) Biomass.~~

12 (i) ~~(ii)~~ Solar and solar thermal energy.

13 (ii) ~~(iii)~~ Wind energy.

14 (iii) ~~(iv)~~ Kinetic energy of moving water, including all of the
 15 following:

16 (A) Waves, tides, or currents.

17 (B) Water released through a dam.

18 (iv) ~~(v)~~ Geothermal energy.

19 (v) ~~(vi)~~ Thermal energy produced from a geothermal heat pump.

20 (vi) ~~(vii)~~ Any of the following cleaner energy resources, **but**
 21 **only to the extent authorized in a renewable energy plan in effect**
 22 **on the effective date of the amendatory act that added section 51:**

23 (A) Municipal solid waste, including the biogenic and
 24 anthropogenic fractions.

25 (B) Landfill gas produced by municipal solid waste.

26 (C) Fuel that has been manufactured in whole or significant
 27 part from waste, including, but not limited to, municipal solid
 28 waste. Fuel that meets the requirements of this subparagraph
 29 includes, but is not limited to, material that is listed under 40

1 CFR 241.3(b) or 241.4(a) or for which a nonwaste determination is
2 made by the United States Environmental Protection Agency pursuant
3 to 40 CFR 241.3(c). Pet coke, hazardous waste, coal waste, or scrap
4 tires are not fuel that meets the requirements of this
5 subparagraph.

6 (h) "Renewable energy standard" means the minimum renewable
7 energy capacity portfolio, if applicable, and the renewable energy
8 credit portfolio required to be achieved under section 28 or former
9 section 27.

10 (i) "Renewable energy system" means a facility, electricity
11 generation system, or set of electricity generation systems that
12 use 1 or more renewable energy resources to generate electricity or
13 steam. Renewable energy system does not include any of the
14 following:

15 (i) A hydroelectric pumped storage facility.

16 (ii) A hydroelectric facility that uses a dam constructed after
17 October 6, 2008 unless the dam is a repair or replacement of a dam
18 in existence on October 6, 2008 or an upgrade of a dam in existence
19 on October 6, 2008 that increases its energy efficiency.

20 (iii) ~~An incinerator. unless the incinerator is a municipal~~
21 ~~solid waste incinerator as defined in section 11504 of the natural~~
22 ~~resources and environmental protection act, 1994 PA 451, MCL~~
23 ~~324.11504.~~

24 (iv) **A gasification facility.**

25 (v) **A pyrolysis facility.**

26 (vi) **A facility using carbon capture and storage technology.**

27 (j) "Revenue recovery mechanism" means the mechanism for
28 recovery of incremental costs of compliance provided for under
29 section 22.

PART 2

ENERGY STANDARDS

SUBPART A

RENEWABLE **AND CARBON-FREE** ENERGY

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,~~ **section 50**, 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
 10 nonvolumetric mechanism for the recovery of the incremental costs
 11 of compliance within the electric provider's customer rates. The
 12 revenue recovery mechanism shall not result in rate impacts that
 13 exceed the monthly maximum retail rate impacts specified under
 14 section 45. The revenue recovery mechanism is subject to adjustment
 15 under ~~sections 47(4) and~~ **section 49**.

16 (3) ~~Within 1 year after the effective date of the 2016~~
 17 ~~amendatory act that added this section,~~ **By April 20, 2024, and**
 18 **every 2 years thereafter through 2030**, the commission shall review
 19 each electric provider's plan pursuant to a filing schedule
 20 established by the commission. **For reviews of its plan, a provider**
 21 **shall propose plan amendments to conform the renewable energy**
 22 **credit standard.**

23 (4) ~~For~~ **In its review of the plan of** an electric provider
 24 whose rates are regulated by the commission, the commission shall
 25 conduct a contested case hearing ~~on the plan~~ pursuant to the
 26

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 2 24.328. After the hearing, the commission shall approve, ~~with any~~
 3 ~~changes consented to by the electric provider,~~ **modify**, or reject
 4 the plan and any amendments to the plan. For all other electric
 5 providers, the commission shall provide an opportunity for public
 6 comment on the plan. After the applicable opportunity for public
 7 comment, the commission shall determine whether any amendment to
 8 the plan proposed by the provider complies with this act. For
 9 alternative electric suppliers, the commission shall approve, ~~with~~
 10 ~~any changes consented to by the electric provider,~~ **modify**, or
 11 reject any proposed amendments to the plan. For cooperative
 12 electric utilities and municipally owned utilities, the proposed
 13 amendment is adopted if the commission determines that it complies
 14 with this act.

15 (5) ~~(4)~~ If an electric provider proposes to amend its plan
 16 ~~after the~~ **at a time other than a scheduled** review process under
 17 subsection (3), the electric provider shall file the proposed
 18 amendment with the commission. For an electric provider whose rates
 19 are regulated by the commission, if the proposed amendment would
 20 modify the revenue recovery mechanism, the commission, **in its**
 21 **review of the proposed amendment**, shall conduct a contested case
 22 hearing ~~on the amendment~~ pursuant to the administrative procedures
 23 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the ~~hearing~~
 24 ~~and within 90 days after the amendment is filed,~~ **review**, the
 25 commission shall approve, ~~with any changes consented to by the~~
 26 ~~electric provider,~~ **modify**, or reject the plan and the proposed
 27 amendment or amendments to the plan. For all other electric
 28 providers, the commission shall provide an opportunity for public
 29 comment on the amendment. After the ~~applicable~~ opportunity for

1 public comment, ~~and within 90 days after the amendment is filed,~~
 2 the commission shall determine whether the proposed amendment to
 3 the plan complies with this act. For alternative electric
 4 suppliers, the commission shall approve, ~~with any changes consented~~
 5 ~~to by the electric provider,~~ **modify**, or reject any proposed
 6 amendments to the plan. For cooperative electric utilities and
 7 municipally owned utilities, the proposed amendment is adopted if
 8 the commission determines that it complies with this act.

9 **(6)** ~~(5)~~ For an electric provider whose rates are regulated by
 10 the commission, the commission shall approve the plan or amendments
 11 to the plan if the commission determines **both of the following**:

12 (a) That the plan is reasonable and prudent. ~~In making this~~
 13 ~~determination, the commission shall take into consideration~~
 14 ~~projected costs and whether or not projected costs in prior plans~~
 15 ~~were exceeded.~~

16 (b) That the plan is consistent with the purpose ~~and goal set~~
 17 ~~forth in section 1(2) and (3)~~ and meets the renewable energy credit
 18 standard through ~~2021-2035~~.

19 **(7)** For an electric provider whose rates are regulated by the
 20 commission, the commission shall review the projected costs of the
 21 plan and approve, in whole or in part, the projected costs if the
 22 commission finds those projected costs, in whole or in part, to be
 23 reasonable and prudent. In making this determination, the
 24 commission shall consider whether projected costs in prior plans
 25 were exceeded.

26 **(8)** ~~(6)~~ If the commission rejects a proposed plan, ~~or an~~
 27 amendment, **or projected costs** under this section, the commission
 28 shall explain in writing the reasons for its determination.

29 **(9)** Beginning in 2030, each electric provider shall file its

1 **renewable energy plan, and the commission shall review the plan, as**
2 **part of the electric provider's carbon-free energy plan.**

3 Sec. 28. (1) An electric provider shall achieve a renewable
4 energy credit portfolio ~~as follows:~~ **of at least the following:**

5 (a) In 2016 through 2018, ~~a renewable energy credit portfolio~~
6 ~~that consists of at least the same number of renewable energy~~
7 ~~credits as were required under former section 27.~~

8 (b) In 2019 and 2020, ~~a renewable energy credit portfolio of~~
9 ~~at least 12.5%, as calculated under subsection (2).~~ **12.5%.**

10 (c) In 2021 ~~, a renewable energy credit portfolio of at least~~
11 ~~15%, as calculated under subsection (2).~~ **through 2026, 15%.**

12 (d) **In 2027 through 2029, 40%.**

13 (e) **In 2030 and each year thereafter, 60%.**

14 (2) **In addition to the renewable energy credit portfolio**
15 **requirements of this section, in 2035 and each year thereafter, an**
16 **electric provider shall achieve a carbon-free energy portfolio of**
17 **100%, subject to the exceptions for biomass and cleaner energy**
18 **resources in the definition of renewable energy resource.**

19 (3) ~~(2)~~ **An electric provider's renewable energy credit**
20 **portfolio shall be calculated as follows:**

21 (a) Determine the number of renewable energy credits used to
22 comply with this subpart during the applicable year.

23 (b) Divide by 1 of the following at the option of the electric
24 provider as specified in its renewable energy plan:

25 (i) The number of weather normalized megawatt hours of
26 electricity sold by the electric provider during the previous year
27 to retail customers in this state.

28 (ii) The average number of megawatt hours of electricity sold
29 by the electric provider annually during the previous 3 years to

1 retail customers in this state.

2 (c) Multiply the quotient under subdivision (b) by 100.

3 ~~(4) (3) Subject to subsection (5), each~~ **Each** electric provider
4 shall meet the renewable energy credit standards ~~with~~ **as follows:**

5 **(a) At least 9% of the renewable energy credit portfolio**
6 **required under subsection (1) (e) shall be obtained from distributed**
7 **generation projects, and at least 2/3 of that 9% shall be obtained**
8 **from distributed generation projects located in low-income**
9 **communities or that serve low-income customers.**

10 **(b) At least 6% of the renewable energy credit portfolio**
11 **required under subsection (1) (e) shall consist of renewable energy**
12 **credits from distributed generation projects that enable renters**
13 **and customers without suitable roof space to obtain renewable**
14 **energy subscriptions, where at least 50% of the capacity of those**
15 **projects is reserved for low-income customers.**

16 **(c) The balance of** renewable energy credits **shall be** obtained
17 by ~~1 or more~~ **either or both** of the following means:

18 **(i) (a)** ~~Generating electricity from renewable energy systems~~
19 ~~for sale to retail customers.~~

20 **(ii) (b)** ~~Purchasing or otherwise acquiring renewable energy~~
21 ~~credits~~ **or capacity.** ~~with or without the associated renewable~~
22 ~~energy.~~

23 **(5) (4)** ~~For an electric provider whose rates are regulated by~~
24 ~~the commission, the electric provider shall submit a contract~~
25 ~~entered into for the purposes of subsection (3) (4) to the~~
26 ~~commission for review and approval. If the commission approves the~~
27 ~~contract, it shall be~~ **is** considered consistent with the electric
28 provider's renewable energy plan. The commission shall not approve
29 a contract based on an unsolicited proposal unless the commission

1 determines that the unsolicited proposal provides opportunities
 2 that may not otherwise be available or commercially practical
 3 through a competitive bid process.

4 ~~(5) An electric provider may substitute energy waste reduction~~
 5 ~~credits for renewable energy credits otherwise required to meet the~~
 6 ~~renewable energy credit standards if the substitution is approved~~
 7 ~~by the commission. Under this subsection, energy waste reduction~~
 8 ~~credits shall not be used by a provider to meet more than 10% of~~
 9 ~~the renewable energy credit standard. One renewable energy credit~~
 10 ~~shall be awarded per 1 energy waste reduction credit.~~

11 Sec. 29. ~~(1) Subject to subsection (2), a~~ **A** renewable energy
 12 system that is the source of renewable energy credits used to
 13 satisfy the renewable energy standards shall be either located
 14 outside of this state ~~in the retail electric customer service~~
 15 ~~territory of any provider that is not an alternative electric~~
 16 ~~supplier~~ **if the renewable energy system will provide energy and**
 17 **capacity to electric customers in this state** or located anywhere in
 18 this state. ~~For the purposes of this subsection, a retail electric~~
 19 ~~customer service territory shall be considered to be the territory~~
 20 ~~recognized by the commission on January 1, 2008 and any expansion~~
 21 ~~of retail electric customer service territory recognized by the~~
 22 ~~commission after January 1, 2008 under 1939 PA 3, MCL 460.1 to~~
 23 ~~460.11. The commission may also expand a service territory for the~~
 24 ~~purposes of this subsection if a lack of transmission lines limits~~
 25 ~~the ability to obtain sufficient renewable energy from renewable~~
 26 ~~energy systems that meet the location requirement of this~~
 27 ~~subsection.~~

28 ~~(2) The renewable energy system location requirements in~~
 29 ~~subsection (1) do not apply if 1 or more of the following~~

1 ~~requirements are met:~~

2 ~~(a) The renewable energy system is a wind energy conversion~~
3 ~~system and the electricity generated by the wind energy system, or~~
4 ~~the renewable energy credits associated with that electricity, is~~
5 ~~being purchased under a contract in effect on January 1, 2008. If~~
6 ~~the electricity and associated renewable energy credits purchased~~
7 ~~under such a contract are used by an electric provider to meet~~
8 ~~renewable energy requirements established after January 1, 2008 by~~
9 ~~the legislature of the state in which the wind energy conversion~~
10 ~~system is located, the electric provider may, for the purpose of~~
11 ~~meeting the renewable energy credit standard under this act,~~
12 ~~obtain, by any means authorized under section 28, up to the same~~
13 ~~number of replacement renewable energy credits from any other wind~~
14 ~~energy conversion systems located in that state. This subdivision~~
15 ~~shall not be utilized by an alternative electric supplier unless~~
16 ~~the alternative electric supplier was licensed in this state on~~
17 ~~January 1, 2008. Renewable energy credits from a renewable energy~~
18 ~~system under a contract with an alternative electric supplier under~~
19 ~~this subdivision shall not be used by another electric provider to~~
20 ~~meet its requirements under this part.~~

21 ~~(b) The renewable energy system is a wind energy conversion~~
22 ~~system that was under construction or operational and owned by an~~
23 ~~electric provider on January 1, 2008. This subdivision shall not be~~
24 ~~utilized by an alternative electric supplier.~~

25 ~~(c) The renewable energy system is a wind energy conversion~~
26 ~~system that includes multiple wind turbines, at least 1 of the wind~~
27 ~~turbines meets the location requirements of this section, and the~~
28 ~~remaining wind turbines are within 15 miles of a wind turbine that~~
29 ~~is part of that wind energy conversion system and that meets the~~

1 ~~location requirements of this section.~~

2 ~~(d) Before January 1, 2008, an electric provider serving not~~
3 ~~more than 75,000 retail electric customers in this state filed an~~
4 ~~application for a certificate of authority for the renewable energy~~
5 ~~system with a state regulatory commission in another state that is~~
6 ~~also served by the electric provider. However, renewable energy~~
7 ~~credits shall not be granted under this subdivision for electricity~~
8 ~~generated using more than 10.0 megawatts of nameplate capacity of~~
9 ~~the renewable energy system.~~

10 ~~(e) Electricity generated from the renewable energy system is~~
11 ~~sold by a not-for-profit entity located in Indiana, Ohio, or~~
12 ~~Wisconsin to a municipally-owned electric utility in this state or~~
13 ~~cooperative electric utility in this state, and the electricity is~~
14 ~~not being used to meet another state's standard for renewable~~
15 ~~energy.~~

16 ~~(f) All of the following requirements are met:~~

17 ~~(i) The renewable energy system is a wind energy system, is~~
18 ~~interconnected to the electric provider's transmission system, and~~
19 ~~is located in a state in which the electric provider has service~~
20 ~~territory.~~

21 ~~(ii) The electric provider competitively bid any contract for~~
22 ~~engineering, procurement, or construction of the renewable energy~~
23 ~~system, if the electric provider owns the renewable energy system,~~
24 ~~or for purchase of the renewable energy and associated renewable~~
25 ~~energy credits from the renewable energy system, if the provider~~
26 ~~does not own the renewable energy system, in a process open to~~
27 ~~renewable energy systems sited in this state.~~

28 ~~(iii) The renewable energy credits from the renewable energy~~
29 ~~system are only used by that electric provider to meet the~~

1 ~~renewable energy standard.~~

2 ~~(iv) The electric provider is not an alternative electric~~
3 ~~supplier.~~

4 Sec. 32. (1) The commission may grant an extension to meet the
5 renewable energy credit standard on petition and a showing by an
6 electric provider of either or both of the following:

7 (a) That compliance with the standard is not practically
8 feasible despite all commercially reasonable efforts by the
9 electric provider to comply. Issuing a request for proposals to
10 purchase renewable energy and not receiving a commercially viable
11 offer creates a rebuttable presumption that compliance with the
12 standard is not practically feasible.

13 (b) That compliance would be excessively costly to customers,
14 despite commercially reasonable efforts by the electric provider to
15 contain costs.

16 (2) The commission shall not grant an electric provider more
17 than 2 extensions or more than 1 extension per year. Each extension
18 shall not exceed 1 year.

19 Sec. 34. (1) Subject to subsections (2) and (3), an electric
20 provider that had 1,000,000 or more retail customers in this state
21 on January 1, 2008 shall obtain the renewable energy credits that
22 are necessary to meet the renewable energy credit standard as
23 follows:

24 (a) At the electric provider's option, up to but no more than
25 50% of the renewable energy credits shall be from any of the
26 following:

27 (i) Renewable energy systems that were developed by and are
28 owned by the electric provider. An electric provider shall
29 competitively bid any contract for engineering, procurement, or

1 construction of any new renewable energy systems described in this
2 subdivision. However, an electric provider may consider unsolicited
3 proposals presented to it by a renewable energy system developer
4 outside of a competitive bid process. If the provider determines
5 that such an unsolicited proposal provides opportunities that may
6 not otherwise be available or commercially practical, the provider
7 may enter into a contract with the developer.

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

25 (b) At least 50% of the renewable energy credits shall be from
26 renewable energy contracts that do not require transfer of
27 ownership of the applicable renewable energy system to the electric
28 provider or from contracts for the purchase of renewable energy
29 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 bid
3 process conducted pursuant to guidelines issued by the commission.
4 However, an electric provider may consider unsolicited proposals
5 presented to it outside of a competitive bid process by a renewable
6 energy system developer that is not affiliated with the electric
7 provider. If the provider determines that such an unsolicited
8 proposal provides opportunities that may not otherwise be available
9 or commercially practical, the provider may enter into a contract
10 with the developer. The contract is subject to review and approval
11 by the commission under section 28(5). An electric provider or its
12 affiliate may not submit a proposal in response to its own request
13 for proposals under this subdivision. If an electric provider
14 selects a bid other than the lowest price conforming bid from a
15 qualified bidder, the electric provider shall promptly notify the
16 commission. The commission shall determine whether the electric
17 provider had good cause for selecting that bid. If the commission
18 determines that the electric provider did not have good cause, the
19 commission shall disapprove the contract.

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

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

23 (b) Renewable energy credits that are produced or obtained by
24 the electric provider from renewable energy systems for which
25 recovery in electric rates was approved as of the effective date of
26 the amendatory act that added this section, including renewable
27 energy credits resulting from biomass co-firing of electric
28 generation facilities in existence on that date, except to the
29 extent the number of megawatt hours of electricity annually

1 generated by biomass co-firing exceeds the number of megawatt hours
2 generated during the 1-year period immediately preceding that date.

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

11 Sec. 45. (1) An electric provider shall recover the
12 incremental cost of compliance with the renewable energy standards
13 for renewable energy plans and amended renewable energy plans that
14 are in effect on the effective date of the amendatory act that
15 added section 50.

16 (2) ~~(1)~~For an electric provider whose rates are regulated by
17 the commission, the commission shall determine the appropriate
18 charges for the electric provider's tariffs that permit recovery of
19 the incremental cost of compliance ~~subject to the retail rate~~
20 ~~impact limits set forth in subsection (2).~~**for renewable energy**
21 **plans and amended renewable energy plans that are in effect on the**
22 **effective date of the amendatory act that added section 50. For an**
23 **electric provider whose rates are regulated by the commission,**
24 **costs of complying with the renewable energy credit standard shall**
25 **be recovered as provided in section 50 and costs of complying with**
26 **the carbon-free energy standard shall be recovered as provided in**
27 **section 52.**

28 ~~(2) An electric provider shall recover the incremental cost of~~
29 ~~compliance with the renewable energy standards. An electric~~

1 ~~provider shall not comply with the renewable energy standards to~~
2 ~~the extent that, as determined by the commission, recovery of the~~
3 ~~incremental cost of compliance will have a retail rate impact that~~
4 ~~exceeds any of the following:~~

5 ~~(a) \$3.00 per month per residential customer meter.~~

6 ~~(b) \$16.58 per month per commercial secondary customer meter.~~

7 ~~(c) \$187.50 per month per commercial primary or industrial~~
8 ~~customer meter.~~

9 ~~(3) The retail rate impact limits of subsection (2) apply only~~
10 ~~to the incremental costs of compliance and do not apply to costs~~
11 ~~approved for recovery by the commission other than as provided in~~
12 ~~this act.~~

13 ~~(3) (4)~~The incremental cost of compliance shall be calculated
14 for a 20-year period beginning with approval of the renewable
15 energy plan and shall be recovered on a levelized basis.

16 Sec. 47. (1) ~~Subject to the retail rate impact limits under~~
17 ~~section 45, the~~**The** commission shall consider all actual costs
18 reasonably and prudently incurred in good faith to implement a
19 ~~commission-approved renewable energy plan by an electric provider~~
20 whose rates are regulated by the commission to be a cost of service
21 to be recovered by the electric provider. ~~Subject to the retail~~
22 ~~rate impact limits under section 45, an~~**An** electric provider whose
23 rates are regulated by the commission shall recover through its
24 retail electric rates all of the electric provider's incremental
25 costs of compliance **for renewable energy plans and amended**
26 **renewable energy plans that are in effect on the effective date of**
27 **the amendatory act that added section 50** during the 20-year period
28 beginning when the electric provider's **original renewable energy**
29 plan ~~is~~**was** approved by the commission and all reasonable and

1 prudent ongoing costs of compliance during and after that period.
 2 The recovery shall include, but is not limited to, the electric
 3 provider's authorized rate of return on equity for costs approved
 4 under this section, which shall remain fixed at the rate of return
 5 and debt to equity ratio that was in effect in the electric
 6 provider's base rates when the electric provider's renewable energy
 7 plan was approved.

8 (2) Incremental costs of compliance **for renewable energy plans**
 9 **and amended renewable energy plans that are in effect on the**
 10 **effective date of the amendatory act that added section 50** shall be
 11 calculated as follows:

12 (a) Determine the sum of the following costs to the extent
 13 those costs are reasonable and prudent and not already approved for
 14 recovery in electric rates as of October 6, 2008:

15 (i) Capital, operating, and maintenance costs of renewable
 16 energy systems, ~~or advanced cleaner energy systems,~~ including
 17 property taxes, insurance, and return on equity associated with an
 18 electric provider's renewable energy systems, ~~or advanced cleaner~~
 19 ~~energy systems,~~ including the electric provider's renewable energy
 20 portfolio established to achieve compliance with the renewable
 21 energy standards and any additional renewable energy systems ~~or~~
 22 ~~advanced cleaner energy systems~~ that are built or acquired by the
 23 electric provider to maintain compliance with the renewable energy
 24 standards during the 20-year period beginning when the electric
 25 provider's plan is approved by the commission.

26 (ii) Financing costs attributable to capital, operating, and
 27 maintenance costs of capital facilities associated with renewable
 28 energy systems ~~or advanced cleaner energy systems~~ used to meet the
 29 renewable energy standard.

1 (iii) Costs that are not otherwise recoverable in rates approved
 2 by the Federal Energy Regulatory Commission and that are related to
 3 the infrastructure required to bring renewable energy systems ~~or~~
 4 ~~advanced cleaner energy systems~~ used to achieve compliance with the
 5 renewable energy standards on to the transmission system, including
 6 interconnection and substation costs for renewable energy systems
 7 ~~or advanced cleaner energy systems~~ used to meet the renewable
 8 energy standard.

9 (iv) Ancillary service costs determined by the commission to be
 10 necessarily incurred to ensure the quality and reliability of
 11 renewable energy ~~or advanced cleaner energy~~ used to meet the
 12 renewable energy standards, regardless of the ownership of a
 13 renewable energy system. ~~or advanced cleaner energy technology.~~

14 (v) Except to the extent the costs are allocated under a
 15 different subparagraph, all of the following:

16 (A) The costs of renewable energy credits purchased under this
 17 act.

18 (B) The costs of contracts described in former section 33(1).

19 (vi) Expenses incurred as a result of state or federal
 20 governmental actions related to renewable energy systems ~~or~~
 21 ~~advanced cleaner energy systems~~ attributable to the renewable
 22 energy standards, including changes in tax or other law.

23 (vii) Any additional electric provider costs determined by the
 24 commission to be necessarily incurred to ensure the quality and
 25 reliability of renewable energy ~~or advanced cleaner energy~~ used to
 26 meet the renewable energy standards.

27 (b) Subtract from the sum of costs not already included in
 28 electric rates determined under subdivision (a) the sum of the
 29 following revenues:

1 (i) Revenue derived from the sale of environmental attributes
2 associated with the generation of renewable energy ~~or advanced~~
3 ~~cleaner energy systems~~ attributable to the renewable energy
4 standards. Such revenue shall not be considered in determining
5 power supply cost recovery factors under section 6j of 1939 PA 3,
6 MCL 460.6j.

7 (ii) Interest on regulatory liabilities.

8 (iii) Tax credits specifically designed to promote renewable
9 energy. ~~or advanced cleaner energy.~~

10 (iv) Revenue derived from the provision of renewable energy ~~or~~
11 ~~advanced cleaner energy~~ to retail electric customers subject to a
12 power supply cost recovery clause under section 6j of 1939 PA 3,
13 MCL 460.6j, of an electric provider whose rates are regulated by
14 the commission. After providing an opportunity for a contested case
15 hearing for an electric provider whose rates are regulated by the
16 commission, the commission shall annually establish a price per
17 megawatt hour. An electric provider whose rates are regulated by
18 the commission may at any time petition the commission to revise
19 the price. In setting the price per megawatt hour under this
20 subparagraph, the commission shall consider factors, including, but
21 not limited to, projected capacity, energy, maintenance, and
22 operating costs; information filed under section 6j of 1939 PA 3,
23 MCL 460.6j; and information from wholesale markets, including, but
24 not limited to, locational marginal pricing. This price shall be
25 multiplied by the sum of the number of megawatt hours of renewable
26 energy ~~and the number of megawatt hours of advanced cleaner energy~~
27 used to maintain compliance with the renewable energy standard. The
28 product shall be considered a booked cost of purchased and net
29 interchanged power transactions under section 6j of 1939 PA 3, MCL

1 460.6j. For energy purchased by such an electric provider under a
 2 renewable energy contract, ~~or advanced cleaner energy contract,~~ the
 3 price shall be the lower of the amount established by the
 4 commission or the actual price paid and shall be multiplied by the
 5 number of megawatt hours of renewable energy ~~or advanced cleaner~~
 6 ~~energy~~ purchased. The resulting value shall be considered a booked
 7 cost of purchased and net interchanged power under section 6j of
 8 1939 PA 3, MCL 460.6j.

9 (v) Revenue from wholesale renewable energy sales. ~~and~~
 10 ~~advanced cleaner energy sales.~~ Such revenue shall not be considered
 11 in determining power supply cost recovery factors under section 6j
 12 of 1939 PA 3, MCL 460.6j.

13 (vi) Any additional electric provider revenue considered by the
 14 commission to be attributable to the renewable energy standards.

15 (vii) Any revenues recovered in rates for renewable energy
 16 costs that are included under subdivision (a).

17 (3) ~~The~~ **For renewable energy plans and amended renewable**
 18 **energy plans that are in effect on the effective date of the**
 19 **amendatory act that added section 50, the** commission shall
 20 authorize an electric provider whose rates are regulated by the
 21 commission to spend in any given month more to comply with this act
 22 and implement ~~an approved~~ **a** renewable energy plan than the revenue
 23 actually generated by the revenue recovery mechanism. An electric
 24 provider whose rates are regulated by the commission shall recover
 25 its commission approved pre-tax rate of return on regulatory assets
 26 during the appropriate period. An electric provider whose rates are
 27 regulated by the commission shall record interest on regulatory
 28 liabilities at the average short-term borrowing rate available to
 29 the electric provider during the appropriate period. Any regulatory

1 assets or liabilities resulting from the recovery of costs of
2 renewable energy ~~or advanced cleaner energy~~ attributable to
3 renewable energy standards through the power supply cost recovery
4 clause under section 6j of 1939 PA 3, MCL 460.6j, shall continue to
5 be reconciled under that section.

6 ~~(4) If an electric provider's incremental costs of compliance~~
7 ~~in any given month during the 20-year period beginning when the~~
8 ~~electric provider's plan is approved by the commission are in~~
9 ~~excess of the revenue recovery mechanism as adjusted under section~~
10 ~~49 and in excess of the balance of any accumulated reserve funds,~~
11 ~~subject to the minimum balance established under section 49, the~~
12 ~~electric provider shall immediately notify the commission. The~~
13 ~~commission shall promptly commence a contested case hearing~~
14 ~~pursuant to the administrative procedures act of 1969, 1969 PA 306,~~
15 ~~MCL 24.201 to 24.328, and modify the revenue recovery mechanism so~~
16 ~~that the minimum balance is restored. However, if the commission~~
17 ~~determines that recovery of the incremental costs of compliance~~
18 ~~would otherwise exceed the maximum retail rate impacts specified~~
19 ~~under section 45, it shall set the revenue recovery mechanism for~~
20 ~~that electric provider to correspond to the maximum retail rate~~
21 ~~impacts. Excess costs shall be accrued and deferred for recovery.~~
22 ~~Not later than the expiration of the 20 year period beginning when~~
23 ~~the electric provider's plan is approved by the commission, for an~~
24 ~~electric provider whose rates are regulated by the commission, the~~
25 ~~commission shall determine the amount of deferred costs to be~~
26 ~~recovered under the revenue recovery mechanism and the recovery~~
27 ~~period, which shall not extend more than 5 years beyond the~~
28 ~~expiration of the 20-year period beginning when the electric~~
29 ~~provider's plan is approved by the commission. The recovery of~~

~~1 excess costs shall be proportional to the retail rate impact limits
2 in section 45 for each customer class. The recovery of excess costs
3 alone, or, if begun before the expiration of the 20-year period, in
4 combination with the recovery of incremental costs of compliance
5 under the revenue recovery mechanism, shall not exceed the retail
6 rate impact limits of section 45 for each customer class.~~

7 (4) ~~(5)~~—If, at the expiration of the 20-year period beginning
8 when the electric provider's **original renewable energy** plan ~~is~~ **was**
9 approved by the commission, an electric provider whose rates are
10 regulated by the commission has a regulatory liability, the
11 **electric provider may utilize the regulatory liability to purchase**
12 **renewable energy, renewable capacity, or renewable energy credits**
13 **or may refund the regulatory liability.** A refund to customer
14 classes shall be proportional to the amounts paid by those customer
15 classes under the revenue recovery mechanism.

16 (5) ~~(6)~~—After achieving compliance with the renewable energy
17 standard for 2015, the actual costs reasonably and prudently
18 incurred to continue to comply with this subpart both during and
19 after the conclusion of the 20-year period beginning when the
20 electric provider's plan is approved by the commission shall be
21 considered costs of service **and recovered under section 50.** ~~The~~
22 ~~commission shall determine a mechanism for an electric provider~~
23 ~~whose rates are regulated by the commission to recover these costs~~
24 ~~in its retail electric rates, subject to the retail rate impact~~
25 ~~limits in section 45. Remaining and future regulatory assets shall~~
26 ~~be recovered consistent with subsections (3) and (4) and section~~
27 ~~49.~~

28 ~~(7) As used in this section:~~

29 ~~(a) "Advanced cleaner energy" means electricity generated~~

1 ~~using an advanced cleaner energy system.~~

2 ~~(b) "Advanced cleaner energy system" means any of the~~
 3 ~~following:~~

4 ~~(i) A gasification facility.~~

5 ~~(ii) A cogeneration facility.~~

6 ~~(iii) A coal-fired electric generating facility if 85% or more~~
 7 ~~of the carbon dioxide emissions are captured and permanently~~
 8 ~~geologically sequestered or used for other commercial or industrial~~
 9 ~~purposes that do not result in release of carbon dioxide to the~~
 10 ~~atmosphere.~~

11 ~~(iv) A hydroelectric pumped storage facility.~~

12 ~~(v) An electric generating facility or system that uses~~
 13 ~~technologies not in commercial operation on October 6, 2008 and~~
 14 ~~that the commission determines has carbon dioxide emissions~~
 15 ~~benefits or will significantly reduce other regulated air~~
 16 ~~emissions.~~

17 Sec. 49. (1) This section applies only to an electric provider
 18 whose rates are regulated by the commission **and to renewable energy**
 19 **plans and amended renewable energy plans that are in effect on the**
 20 **effective date of the amendatory act that added section 50.** The
 21 commission shall commence an annual proceeding, to be known as a
 22 renewable cost reconciliation, for each electric provider whose
 23 rates are regulated by the commission. The renewable cost
 24 reconciliation proceeding shall be conducted as a contested case
 25 pursuant to the administrative procedures act of 1969, 1969 PA 306,
 26 MCL 24.201 to 24.328. Reasonable discovery shall be permitted
 27 before and during the reconciliation proceeding to assist in
 28 obtaining evidence concerning reconciliation issues, including, but
 29 not limited to, the reasonableness and prudence of expenditures and

1 the amounts collected pursuant to the revenue recovery mechanism.

2 (2) At the renewable cost reconciliation, an electric provider
3 may propose any necessary modifications of the revenue recovery
4 mechanism to ensure the electric provider's recovery of its
5 incremental cost of compliance with the renewable energy standards.

6 (3) The commission shall reconcile the pertinent revenues
7 recorded and the allowance for the nonvolumetric revenue recovery
8 mechanism with the amounts actually expensed and projected
9 according to the electric provider's renewable energy plan. The
10 commission shall consider any issue regarding the reasonableness
11 and prudence of expenses for which customers were charged in the
12 relevant reconciliation period. In its order, the commission shall
13 do all of the following:

14 (a) Make a determination of an electric provider's compliance
15 with the renewable energy standards.

16 (b) Adjust the revenue recovery mechanism for the incremental
17 costs of compliance. The commission shall ensure that the retail
18 rate impacts under this renewable cost reconciliation revenue
19 recovery mechanism do not exceed the maximum retail rate impacts
20 specified under section 45. The commission shall ensure that the
21 recovery mechanism is projected to maintain a minimum balance of
22 accumulated reserve so that a regulatory asset does not accrue.

23 (c) Establish the price per megawatt hour for renewable energy
24 ~~and advanced cleaner energy~~ capacity and for renewable energy ~~and~~
25 ~~advanced cleaner energy~~ to be recovered through the power supply
26 cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, as
27 outlined in section 47(2) (b) (iv).

28 (d) Adjust, if needed, the minimum balance of accumulated
29 reserve funds described in subdivision (b).

1 (4) If an electric provider has recorded a regulatory
2 liability in any given month during the 20-year period beginning
3 when the electric provider's renewable energy plan was approved by
4 the commission, interest on the regulatory liability balance shall
5 be accrued at the average short-term borrowing rate available to
6 the electric provider during the appropriate period, and shall be
7 used to fund incremental costs of compliance incurred in subsequent
8 periods within the 20-year period beginning when the electric
9 provider's plan was approved by the commission.

10 ~~(5) As used in this section, "advanced cleaner energy" means~~
11 ~~that term as defined in section 47.~~

12 **Sec. 50. (1) This section applies only to electric providers**
13 **whose rates are regulated by the commission. The actual costs**
14 **reasonably and prudently incurred by an electric provider to comply**
15 **with the renewable energy credit standards are costs of service,**
16 **subject to this section.**

17 (2) The commission shall authorize an electric provider to
18 include in the electric provider's rate base the actual costs of
19 renewable energy systems constructed or acquired by the electric
20 provider up to the projected costs that the commission has approved
21 in a renewable energy plan or renewable energy plan amendment under
22 section 22.

23 (3) The commission shall authorize an electric provider to
24 recover the actual costs of renewable energy, renewable capacity,
25 and renewable energy credits purchased by the electric provider
26 through the power supply cost recovery clause under section 6j of
27 1939 PA 3, MCL 460.6j, up to the projected costs of those purchases
28 that the commission approved in a renewable energy plan or
29 renewable energy plan amendment under section 22.

1 (4) If the actual costs incurred by an electric provider for
2 any renewable energy system constructed or acquired by the electric
3 provider exceed the costs approved by the commission, the electric
4 provider has the burden of proving by a preponderance of the
5 evidence that the excess costs are reasonable and prudent. The
6 commission may authorize recovery of all or part of the excess
7 costs if the commission finds by a preponderance of the evidence
8 that the excess costs are reasonable and prudent. The commission
9 shall disallow costs that the commission finds have been incurred
10 as the result of fraud, concealment, mismanagement, or lack of
11 quality controls amounting to mismanagement. The commission shall
12 also require refunds to ratepayers, with interest at the electric
13 provider's approved weighted average cost of capital, for any of
14 these costs already recovered through the electric provider's rates
15 and charges.

16 (5) If the actual costs incurred by an electric provider for
17 any purchase of renewable energy, renewable capacity, or renewable
18 energy credits exceed the costs approved by the commission, the
19 commission shall review those costs in power supply cost
20 reconciliation proceedings as excess costs under section 6j(15) of
21 1939 PA 3, MCL 460.6j, under the same standard provided for excess
22 costs incurred through management actions contrary to the
23 commission's power supply and cost review order.

24 (6) If the assumptions underlying a renewable energy plan or
25 plan amendment materially change, or if the commission determines
26 that a renewable energy system included in the plan is likely not
27 to be commercially viable, an electric provider may request, or the
28 commission on its own motion may initiate, a proceeding to review
29 whether it is reasonable and prudent to complete the renewable

1 energy system. If the commission finds that it is not reasonable
2 and prudent to complete the renewable energy system as approved,
3 the commission may modify or cancel approval of the renewable
4 energy system and any unincurred costs in the electric provider's
5 renewable energy plan or plan amendment that are no longer
6 approved. If the commission modifies or cancels approval, the
7 commission shall review renewable energy system costs already
8 incurred or committed to by the electric provider. The commission
9 shall authorize recovery of those costs only if the commission
10 finds both of the following:

11 (a) Those costs were not incurred as the result of fraud,
12 concealment, mismanagement, or lack of quality controls amounting
13 to mismanagement.

14 (b) The electric provider's decisions related to incurring the
15 costs were reasonable and prudent under the circumstances that were
16 known or could have been known at the time the decisions were made.

17 (7) The commission may allow recovery, in an electric
18 provider's base rates, of interest costs to finance in-progress
19 construction of a renewable energy system approved under this
20 section, before the renewable energy system is considered used and
21 useful. Regardless of whether the commission authorizes the base
22 rate treatment, an electric provider may recognize, accrue, and
23 defer the allowance for funds used during construction.

24 Sec. 51. (1) To ensure the achievement of the carbon-free
25 energy standard, each electric provider shall file, and the
26 commission shall review, a carbon-free energy plan under the
27 procedures and standards set forth in this section.

28 (2) Not later than April 20, 2030 and every 2 years
29 thereafter, the commission shall review each electric provider's

1 carbon-free energy plan pursuant to a filing schedule established
2 by the commission.

3 (3) For an electric provider whose rates are regulated by the
4 commission, the commission shall do all of the following:

5 (a) Conduct a contested case hearing on the carbon-free energy
6 plan pursuant to the administrative procedures act of 1969, 1969 PA
7 306, MCL 24.201 to 24.328. After the hearing, the commission shall
8 approve, modify, or reject the carbon-free energy plan and any
9 amendments to the carbon-free energy plan.

10 (b) Approve the plan or amendments to the plan, as applicable,
11 if the commission determines both of the following:

12 (i) That the plan is reasonable and prudent.

13 (ii) That the plan or amendment meets the renewable energy
14 credit standard and carbon-free energy standard and is consistent
15 with the purposes of the carbon-free energy standard.

16 (c) Review and approve, in whole or in part, the projected
17 costs of the plan if the commission finds those projected costs or
18 a portion of those projected costs to be reasonable and prudent.

19 (d) If the commission rejects a proposed plan, plan amendment,
20 or any projected costs under this section, explain in writing the
21 reasons for its determination.

22 (4) For all other electric providers, the commission shall
23 provide an opportunity for public comment on the carbon-free energy
24 plan. After the opportunity for public comment, the commission
25 shall determine whether any amendment to the carbon-free energy
26 plan proposed by the provider complies with this act. For
27 alternative electric suppliers, the commission shall approve, with
28 any changes consented to by the electric provider, or reject any
29 proposed amendments to the carbon-free energy plan. For cooperative

1 electric utilities and municipally owned utilities, the proposed
2 amendment is adopted if the commission determines that it complies
3 with this act.

4 (5) If an electric provider proposes to amend its carbon-free
5 energy plan at a time other than a scheduled review process under
6 subsection (2), the electric provider shall file the proposed
7 amendment with the commission. The commission shall review the
8 amended plan under the same procedures and standards set forth in
9 subsection (2).

10 Sec. 52. (1) This section applies only to electric providers
11 whose rates are regulated by the commission. The actual costs
12 reasonably and prudently incurred by an electric provider to comply
13 with the carbon-free energy standard shall be considered costs of
14 service, subject to this section.

15 (2) The commission shall authorize an electric provider to
16 include in the electric provider's rate base the actual costs of
17 carbon-free energy systems constructed or acquired by the electric
18 provider up to the projected costs that the commission has approved
19 in a carbon-free plan or carbon-free plan amendment under section
20 51.

21 (3) The commission shall authorize an electric provider to
22 recover in the actual costs of carbon-free energy and capacity
23 purchased by the electric provider through the power supply cost
24 recovery clause under section 6j of 1939 PA 3, MCL 460.6j, up to
25 the projected costs of those purchases that the commission has
26 approved in a carbon-free plan or plan amendment proceeding under
27 section 51.

28 (4) If the actual costs incurred by an electric provider for
29 any carbon-free energy system constructed or acquired by the

1 electric provider exceed the costs approved by the commission, the
2 electric provider has the burden of proving by a preponderance of
3 the evidence that the excess costs are reasonable and prudent. The
4 commission may authorize recovery of all or part of the excess
5 costs if the commission finds by a preponderance of the evidence
6 that the excess costs are reasonable and prudent. The commission
7 shall disallow costs the commission finds have been incurred as the
8 result of fraud, concealment, mismanagement, or lack of quality
9 controls amounting to mismanagement. The commission shall also
10 require refunds to ratepayers, with interest at the electric
11 provider's approved weighted average cost of capital, for any of
12 these costs already recovered through the electric provider's rates
13 and charges.

14 (5) If the actual costs incurred by an electric provider for a
15 purchase of carbon-free energy or carbon-free capacity exceed the
16 costs approved by the commission, the commission shall review those
17 costs in power supply cost reconciliation proceedings as excess
18 costs under section 6j(15) of 1939 PA 3, MCL 460.6j, under the same
19 standard provided for excess costs incurred through management
20 actions contrary to the commission's power supply and cost review
21 order.

22 (6) If the assumptions underlying a carbon-free energy plan or
23 plan amendment materially change, or if the commission determines
24 that a carbon-free energy system included in the plan is likely not
25 to be commercially viable, an electric provider may request, or the
26 commission on its own motion may initiate, a proceeding to review
27 whether it is reasonable and prudent to complete the carbon-free
28 energy system. If the commission finds that it is not reasonable
29 and prudent to complete the carbon-free energy system as approved,

1 the commission may modify or cancel approval of the carbon-free
2 energy system and any unincurred costs in the electric provider's
3 renewable energy plan or plan amendment that are no longer
4 approved. If the commission modifies or cancels approval, the
5 commission shall review carbon-free energy system costs already
6 incurred or committed to by the electric provider. The commission
7 shall authorize recovery of those costs only if the commission
8 finds both of the following:

9 (a) Those costs were not incurred as the result of fraud,
10 concealment, mismanagement, or lack of quality controls amounting
11 to mismanagement.

12 (b) The electric provider's decisions related to incurring the
13 costs were reasonable and prudent under the circumstances that were
14 known or could have been known at the time the decisions were made.

15 (7) The commission may allow recovery in an electric
16 provider's base rates of interest costs to finance in-progress
17 construction of a carbon-free energy system approved under this
18 section, before the carbon-free energy system is considered used
19 and useful. Regardless of whether the commission authorizes the
20 base rate treatment, an electric provider may recognize, accrue,
21 and defer the allowance for funds used during construction.

22 Sec. 53. (1) On a formal complaint by any person presenting
23 credible evidence of noncompliance or on its own motion, the
24 commission shall regularly investigate whether an electric provider
25 whose rates are regulated by the commission or an alternative
26 electric supplier is in compliance with the renewable energy
27 standard and the carbon-free energy standard. If the commission
28 finds after notice and an opportunity for hearing that the electric
29 provider is not in compliance with the renewable energy standard or

1 carbon-free energy standard, the commission may order the electric
2 provider, by a date or dates specified by the commission, to
3 construct, issue requests for proposal for, or purchase energy
4 generated by renewable energy systems or carbon-free energy
5 systems, to purchase renewable energy credits, or to engage in
6 other activities as the commission determines to be reasonably
7 necessary to achieve compliance. If an electric provider fails to
8 comply with an order under this subsection, the commission may
9 impose a fine on the electric provider in an amount the commission
10 determines sufficient to deter continued noncompliance, not to
11 exceed the estimated cost of the electric provider to achieve
12 compliance by the least costly alternative. An electric provider
13 whose rates are regulated by the commission shall not recover the
14 cost of any fine imposed under this subsection from retail
15 customers in rates. The commission shall deposit any fines
16 collected under this subsection in the low-income energy assistance
17 fund created in section 9t of 1939 PA 3, MCL 460.9t. This
18 subsection is in addition to and does not limit any other authority
19 of the commission to enforce the renewable energy standard or
20 carbon-free energy standard.

21 (2) The attorney general or any customer of a municipally
22 owned electric utility or a cooperative electric utility that is
23 member-regulated under the electric cooperative member-regulation
24 act, 2008 PA 167, MCL 460.31 to 460.39, may commence a civil action
25 for injunctive relief against that municipally owned electric
26 utility or cooperative electric utility if the municipally owned
27 electric utility or cooperative electric utility fails to meet the
28 applicable requirements of this subpart or an order issued or rule
29 promulgated under this subpart. The attorney general or customer

1 shall commence an action under this subsection in the circuit court
2 for the circuit in which the principal office of the municipally
3 owned electric utility or cooperative electric utility is located.
4 The attorney general or customer shall not file an action under
5 this subsection unless the attorney general or customer has given
6 the municipally owned electric utility or cooperative electric
7 utility at least 60 days' written notice of the intent to sue, the
8 basis for the suit, and the relief sought. Within 30 days after the
9 municipally owned electric utility or cooperative electric utility
10 receives written notice of the intent to sue, the municipally owned
11 electric utility or cooperative electric utility and the attorney
12 general or customer shall meet and make a good-faith attempt to
13 determine if there is a credible basis for the action. The
14 municipally owned electric utility or cooperative electric utility
15 shall take all reasonable and prudent steps necessary to comply
16 with the applicable requirements of this subpart or an order issued
17 or rule promulgated under this subpart within 90 days after the
18 meeting if there is a credible basis for the action. If the parties
19 do not agree as to whether there is a credible basis for the
20 action, the attorney general or customer may proceed to file the
21 suit.

22 (3) A customer that prevails in an action brought under
23 subsection (2) by judgment, by settlement, or by causing the
24 municipally owned electric utility or cooperative electric utility
25 to voluntarily comply is entitled to recover the customer's
26 reasonable costs, attorney fees, and expert witness fees incurred
27 in bringing the action.

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