

HOUSE BILL NO. 4760

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

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the powers and duties of certain state governmental officers and entities; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to

qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

by amending sections 6, 6a, 6m, 6t, and 11 (MCL 460.6, 460.6a, 460.6m, 460.6t, and 460.11), section 6 as amended by 2005 PA 190 and sections 6a, 6m, and 11 as amended and section 6t as added by 2016 PA 341, and by adding section 6aa.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The public service commission is vested with
 2 complete power and jurisdiction to regulate all public utilities in
 3 the state except a municipally owned utility, the owner of a
 4 renewable resource power production facility as provided in section
 5 6d, and except as otherwise restricted by law. The public service
 6 commission is vested with the power and jurisdiction to regulate
 7 all rates, fares, fees, charges, services, rules, conditions of
 8 service, and all other matters pertaining to the formation,
 9 operation, or direction of public utilities. The public service
 10 commission is further granted the power and jurisdiction to hear
 11 and pass upon all matters pertaining to, necessary, or incident to
 12 the regulation of public utilities, including electric light and
 13 power companies, whether private, corporate, or cooperative; water,
 14 telegraph, oil, gas, and pipeline companies; motor carriers;
 15 private wastewater treatment facilities; and all public
 16 transportation and communication agencies other than railroads and
 17 railroad companies.

18 (2) A private, investor-owned wastewater utility may apply to

1 the commission for rate regulation. If an application is filed
2 under this subsection, the commission is vested with the specific
3 grant of jurisdictional authority to regulate the rates, fares,
4 fees, and charges of private, investor-owned wastewater utilities.
5 As used in this subsection, "private, investor-owned wastewater
6 utilities" means a utility that delivers wastewater treatment
7 services through a sewage system and the physical assets of which
8 are wholly owned by an individual or group of individual
9 shareholders.

10 (3) In executing its duties, powers, and regulatory function
11 under this act, the commission shall prioritize the following
12 goals:

13 (a) The reliability, safety, and resilience of the utility
14 system in this state.

15 (b) Service quality in this state.

16 (c) The affordability of utility service in this state. As
17 used in this subdivision, "affordability" includes, but is not
18 limited to, all of the following:

19 (i) The ability of residential customers in this state,
20 including low-income residential customers, to access safe and
21 reliable utility services at a price the customer can pay without
22 compromising the customer's ability to meet other essential needs.

23 (ii) Any definitions of affordability developed by the energy
24 affordability and accessibility collaborative or other relevant
25 working groups and adopted by the commission.

26 (d) Equitable access to energy efficiency, weatherization,
27 home electrification programs and services, and clean energy
28 technologies.

29 (e) Minimization of harm and prioritization of benefits in

1 communities consisting predominately of minorities or households
2 below the poverty line where factors, including socioeconomic
3 stressors, disproportionate cost and environmental burdens,
4 vulnerability to environmental degradation, and lack of
5 accessibility in public participation, may act cumulatively to
6 affect public health and the environment and contribute to
7 persistent disparities.

8 (f) Compliance with state public policy goals for the utility
9 sector, including the goals of meeting 60% of this state's
10 electricity needs using renewable energy by 2030 and meeting 100%
11 of this state's electricity needs using carbon-free energy by 2035.

12 (g) Overall cost-effectiveness and nondiscrimination in
13 providing utility service in this state.

14 (4) Upon complaint, on its own motion, or in any contested
15 proceeding, including, but not limited to, any general rate case,
16 the commission may do any of the following:

17 (a) Direct a public utility to establish or undertake any
18 policy, practice, or service that is reasonable, prudent, and in
19 the public interest, including any policy, practice, or service
20 that falls within the management powers or decisions of the public
21 utility.

22 (b) Prohibit or direct a utility to cease any policy,
23 practice, or service that is unreasonable, imprudent,
24 discriminatory, or prejudicial to the public interest, including
25 any policy, practice, or service that falls within the management
26 powers or decisions of the public utility.

27 Sec. 6a. (1) A gas utility, electric utility, or steam utility
28 shall not increase its rates and charges or alter, change, or amend
29 any rate or rate schedules, the effect of which will be to increase

1 the cost of services to its customers, without first receiving
2 commission approval as provided in this section. A utility shall
3 coordinate with the commission staff in advance of filing its
4 general rate case application under this section to avoid resource
5 challenges with applications being filed at the same time as
6 applications filed under this section by other utilities. In the
7 case of electric utilities serving more than 1,000,000 customers in
8 this state, the commission may, if necessary, order a delay in
9 filing an application to establish a 21-day spacing between filings
10 of electric utilities serving more than 1,000,000 customers in this
11 state. The utility shall place in evidence facts relied upon to
12 support the utility's petition or application to increase its rates
13 and charges, or to alter, change, or amend any rate or rate
14 schedules. The commission shall require notice to be given to all
15 interested parties within the service area to be affected, and ~~all~~
16 **allow** interested parties ~~shall have~~ a reasonable opportunity for a
17 full and complete hearing. A utility may use projected costs and
18 revenues for a future consecutive 12-month period in developing its
19 requested rates and charges. The commission shall notify the
20 utility within 30 days after filing, whether the utility's petition
21 or application is complete. A petition or application is considered
22 complete if it complies with the rate application filing forms and
23 instructions adopted under subsection (8). If the application is
24 not complete, the commission shall notify the utility of all
25 information necessary to make that filing complete. If the
26 commission has not notified the utility within 30 days of whether
27 the utility's petition or application is complete, the application
28 is considered complete. Concurrently with filing a complete
29 application, or at any time after filing a complete application, a

1 gas utility serving fewer than 1,000,000 customers in this state
2 may file a motion seeking partial and immediate rate relief. After
3 providing notice to the interested parties within the service area
4 to be affected and affording interested parties a reasonable
5 opportunity to present written evidence and written arguments
6 relevant to the motion seeking partial and immediate rate relief,
7 the commission shall make a finding and enter an order granting or
8 denying partial and immediate relief within 180 days after the
9 motion seeking partial and immediate rate relief was submitted. The
10 commission has 12 months to issue a final order in a case in which
11 a gas utility has filed a motion seeking partial and immediate rate
12 relief. **In approving a utility's petition or application to**
13 **increase its rates and charges, or to alter, change, or amend any**
14 **rate or rate schedules, the commission must consider and address**
15 **whether the petition or application promotes the public interest.**
16 **In assessing whether the petition or application promotes the**
17 **public interest, the commission shall consider the goals in section**
18 **6(3) and any significant issues raised in a public input hearing**
19 **under section 6aa.**

20 (2) If the commission has not issued an order within 180 days
21 ~~of~~**after** the filing of a complete application, the utility may
22 implement up to the amount of the proposed annual rate request
23 through equal percentage increases or decreases applied to all base
24 rates. If the utility uses projected costs and revenues for a
25 future period in developing its requested rates and charges, the
26 utility may not implement the equal percentage increases or
27 decreases before the calendar date corresponding to the start of
28 the projected 12-month period. For good cause, the commission may
29 issue a temporary order preventing or delaying a utility from

1 implementing its proposed rates or charges. If a utility implements
2 increased rates or charges under this subsection before the
3 commission issues a final order, that utility shall refund to
4 customers, with interest, any portion of the total revenues
5 collected through application of the equal percentage increase that
6 exceed the total that would have been produced by the rates or
7 charges subsequently ordered by the commission in its final order.
8 The commission shall allocate any refund required by this
9 subsection among primary customers based upon their pro rata share
10 of the total revenue collected through the applicable increase, and
11 among secondary and residential customers in a manner to be
12 determined by the commission. The rate of interest for refunds
13 ~~shall equal~~ **is** 5% plus the London interbank offered rate (LIBOR)
14 for the appropriate time period. For any portion of the refund
15 that, exclusive of interest, exceeds 25% of the annual revenue
16 increase awarded by the commission in its final order, the rate of
17 interest ~~shall be~~ **is** the authorized rate of return on the common
18 stock of the utility during the appropriate period. Any refund or
19 interest awarded under this subsection ~~shall~~ **must** not be included,
20 in whole or in part, in any application for a rate increase by a
21 utility. This subsection only applies to completed applications
22 filed with the commission before ~~the effective date of the~~
23 ~~amendatory act that added section 6t.~~ **April 20, 2017.**

24 (3) This section does not impair the commission's ability to
25 issue a show cause order as part of its rate-making authority. An
26 alteration or amendment in rates or rate schedules applied for by a
27 public utility that will not result in an increase in the cost of
28 service to its customers may be authorized and approved without
29 notice or hearing. There shall be no increase in rates based upon

1 changes in cost of fuel, purchased gas, or purchased steam unless
2 notice has been given within the service area to be affected, and
3 there has been an opportunity for a full and complete hearing on
4 the cost of fuel, purchased gas, or purchased steam. The rates
5 charged by any utility under an automatic fuel, purchased gas, or
6 purchased steam adjustment clause shall not be altered, changed, or
7 amended unless notice has been given within the service area to be
8 affected, and there has been an opportunity for a full and complete
9 hearing on the cost of the fuel, purchased gas, or purchased steam.

10 (4) The commission shall adopt rules and procedures for the
11 filing, investigation, and hearing of petitions or applications to
12 increase or decrease utility rates and charges as the commission
13 finds necessary or appropriate to enable it to reach a final
14 decision with respect to petitions or applications within a period
15 of time allotted by law to issue a final order after the filing of
16 the complete petitions or applications. The commission shall not
17 authorize or approve adjustment clauses that operate without notice
18 and an opportunity for a full and complete hearing, and all such
19 clauses are abolished. The commission may hold a full and complete
20 hearing to determine the cost of fuel, purchased gas, purchased
21 steam, or purchased power separately from a full and complete
22 hearing on a general rate case and may hold that hearing
23 concurrently with the general rate case. The commission shall
24 authorize a utility to recover the cost of fuel, purchased gas,
25 purchased steam, or purchased power only to the extent that the
26 purchases are reasonable and prudent.

27 (5) Except as otherwise provided in this subsection and
28 subsection (1), if the commission fails to reach a final decision
29 with respect to a completed petition or application to increase or

1 decrease utility rates within the 10-month period following the
2 filing of the completed petition or application, the petition or
3 application is considered approved. If a utility makes any
4 significant amendment to its filing, the commission has an
5 additional 10 months after the date of the amendment to reach a
6 final decision on the petition or application. If the utility files
7 for an extension of time, the commission shall extend the 10-month
8 period by the amount of additional time requested by the utility.

9 (6) A utility shall not file a general rate case application
10 for an increase in rates earlier than 12 months after the date of
11 the filing of a complete prior general rate case application. A
12 utility may not file a new general rate case application until the
13 commission has issued a final order on a prior general rate case or
14 until the rates are approved under subsection (5).

15 (7) The commission shall, if requested by a gas utility,
16 establish load retention transportation rate schedules or approve
17 gas transportation contracts as required for the purpose of serving
18 industrial or commercial customers whose individual annual
19 transportation volumes exceed 500,000 decatherms on the gas
20 utility's system. The commission shall approve these rate schedules
21 or approve transportation contracts entered into by the utility in
22 good faith if the industrial or commercial customer has the
23 installed capability to use an alternative fuel or otherwise has a
24 viable alternative to receiving natural gas transportation service
25 from the utility, the customer can obtain the alternative fuel or
26 gas transportation from an alternative source at a price that would
27 cause them not to use the gas utility's system, and the customer,
28 as a result of their use of the system and receipt of
29 transportation service, makes a significant contribution to the

1 utility's fixed costs. The commission shall adopt accounting and
2 rate-making policies to ensure that the discounts associated with
3 the transportation rate schedules and contracts are recovered by
4 the gas utility through charges applicable to other customers if
5 the incremental costs related to the discounts are no greater than
6 the costs that would be passed on to those customers as the result
7 of a loss of the industrial or commercial customer's contribution
8 to a utility's fixed costs.

9 (8) The commission shall adopt standard rate application
10 filing forms and instructions for use in all general rate cases
11 filed by utilities whose rates are regulated by the commission. For
12 cooperative electric utilities whose rates are regulated by the
13 commission, in addition to rate applications filed under this
14 section, the commission shall continue to allow for rate filings
15 based on the cooperative's times interest earned ratio. The
16 commission may modify the standard rate application forms and
17 instructions adopted under this subsection.

18 (9) If, on or before January 1, 2008, a merchant plant entered
19 into a contract with an initial term of 20 years or more to sell
20 electricity to an electric utility whose rates are regulated by the
21 commission with 1,000,000 or more retail customers in this state
22 and if, before January 1, 2008, the merchant plant generated
23 electricity under that contract, in whole or in part, from wood or
24 solid wood wastes, then the merchant plant shall, upon petition by
25 the merchant plant, and subject to the limitation set forth in
26 subsection (10), recover the amount, if any, by which the merchant
27 plant's reasonably and prudently incurred actual fuel and variable
28 operation and maintenance costs exceed the amount that the merchant
29 plant is paid under the contract for those costs. This subsection

1 does not apply to landfill gas plants, hydro plants, municipal
2 solid waste plants, or to merchant plants engaged in litigation
3 against an electric utility seeking higher payments for power
4 delivered pursuant to contract.

5 (10) The total aggregate additional amounts recoverable by
6 merchant plants under subsection (9) in excess of the amounts paid
7 under the contracts ~~shall~~**must** not exceed \$1,000,000.00 per month
8 for each affected electric utility. The \$1,000,000.00 per month
9 limit specified in this subsection ~~shall~~**must** be reviewed by the
10 commission upon petition of the merchant plant filed no more than
11 once per year and may be adjusted if the commission finds that the
12 eligible merchant plants reasonably and prudently incurred actual
13 fuel and variable operation and maintenance costs exceed the amount
14 that those merchant plants are paid under the contract by more than
15 \$1,000,000.00 per month. The annual amount of the adjustments ~~shall~~
16 **must** not exceed a rate equal to the United States ~~consumer price~~
17 ~~index.~~**Consumer Price Index.** The commission shall not make an
18 adjustment unless each affected merchant plant files a petition
19 with the commission. If the total aggregate amount by which the
20 eligible merchant plants reasonably and prudently incurred actual
21 fuel and variable operation and maintenance costs determined by the
22 commission exceed the amount that the merchant plants are paid
23 under the contract by more than \$1,000,000.00 per month, the
24 commission shall allocate the additional \$1,000,000.00 per month
25 payment among the eligible merchant plants based upon the
26 relationship of excess costs among the eligible merchant plants.
27 The \$1,000,000.00 limit specified in this subsection, as adjusted,
28 does not apply to actual fuel and variable operation and
29 maintenance costs that are incurred due to changes in federal or

1 state environmental laws or regulations that are implemented after
2 October 6, 2008. The \$1,000,000.00 per month payment limit under
3 this subsection does not apply to merchant plants eligible under
4 subsection (9) whose electricity is purchased by a utility that is
5 using wood or wood waste or fuels derived from those materials for
6 fuel in their power plants. As used in this subsection, "~~United~~
7 ~~States consumer price index~~" **Consumer Price Index**" means the United
8 ~~States consumer price index~~ **Consumer Price Index** for all urban
9 consumers as defined and reported by the United States Department
10 of Labor, Bureau of Labor Statistics.

11 (11) The commission shall issue orders to permit the recovery
12 authorized under subsections (9) and (10) upon petition of the
13 merchant plant. The merchant plant is not required to alter or
14 amend the existing contract with the electric utility in order to
15 obtain the recovery under subsections (9) and (10). The commission
16 shall permit or require the electric utility whose rates are
17 regulated by the commission to recover from its ratepayers all fuel
18 and variable operation and maintenance costs that the electric
19 utility is required to pay to the merchant plant as reasonably and
20 prudently incurred costs.

21 (12) Subject to subsection (13), if requested by an electric
22 utility with less than 200,000 customers in this state, the
23 commission shall approve an appropriate revenue decoupling
24 mechanism that adjusts for decreases in actual sales compared to
25 the projected levels used in that utility's most recent rate case
26 that are the result of implemented energy waste reduction,
27 conservation, demand-side programs, and other waste reduction
28 measures, if the utility first demonstrates the following to the
29 commission:

1 (a) That the projected sales forecast in the utility's most
2 recent rate case is reasonable.

3 (b) That the electric utility has achieved annual incremental
4 energy savings at least equal to the lesser of the following:

5 (i) One percent of its total annual retail electricity sales in
6 the previous year.

7 (ii) The amount of any incremental savings yielded by energy
8 waste reduction, conservation, demand-side programs, and other
9 waste reduction measures approved by the commission in that
10 utility's most recent integrated resource plan.

11 (13) The commission shall consider the aggregate revenues
12 attributable to revenue decoupling mechanisms, financial
13 incentives, and shared savings mechanisms the commission has
14 approved for an electric utility relative to energy waste
15 reduction, conservation, demand-side programs, peak load reduction,
16 and other waste reduction measures. The commission may approve an
17 alternative methodology for a revenue decoupling mechanism
18 authorized under subsection (12), a financial incentive authorized
19 under section 75 of the clean and renewable energy and energy waste
20 reduction act, 2008 PA 295, MCL 460.1075, or a shared savings
21 mechanism authorized under section 6x if the commission determines
22 that the resulting aggregate revenues from those mechanisms would
23 not result in a reasonable and cost-effective method to ensure that
24 investments in energy waste reduction, demand-side programs, peak
25 load reduction, and other waste reduction measures are not
26 disfavored when compared to utility supply-side investments. The
27 commission's consideration of an alternative methodology under this
28 subsection ~~shall~~**must** be conducted as a contested case ~~pursuant to~~
29 **in accordance with** chapter 4 of the administrative procedures act

1 of 1969, 1969 PA 306, MCL 24.271 to ~~24.287~~.**24.288**.

2 (14) ~~Within 1 year after the effective date of the amendatory~~
3 ~~act that added this subsection,~~ **By April 20, 2018**, the commission
4 shall conduct a study on an appropriate tariff reflecting equitable
5 cost of service for utility revenue requirements for customers who
6 participate in a net metering program or distributed generation
7 program under the clean and renewable energy and energy waste
8 reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. In any rate
9 case filed after June 1, 2018, the commission shall approve such a
10 tariff for inclusion in the rates of all customers participating in
11 a net metering or distributed generation program under the clean
12 and renewable energy and energy waste reduction act, 2008 PA 295,
13 MCL 460.1001 to 460.1211. A tariff established under this
14 subsection does not apply to customers participating in a net
15 metering program under the clean and renewable energy and energy
16 waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211, before
17 the date that the commission establishes a tariff under this
18 subsection, who continues to participate in the program at their
19 current site or facility.

20 (15) Except as otherwise provided in this act, "utility" and
21 "electric utility" do not include a municipally owned electric
22 utility.

23 (16) As used in this section:

24 (a) "Full and complete hearing" means a hearing that provides
25 interested parties a reasonable opportunity to present and cross-
26 examine evidence and present arguments relevant to the specific
27 element or elements of the request that are the subject of the
28 hearing.

29 (b) "General rate case" means a proceeding initiated by a

1 utility in an application filed with the commission that alleges a
 2 revenue deficiency and requests an increase in the schedule of
 3 rates or charges based on the utility's total cost of providing
 4 service.

5 (c) "Steam utility" means a steam distribution company
 6 regulated by the commission.

7 Sec. 6m. (1) The utility consumer representation fund is
 8 created as a special fund. The state treasurer ~~shall be~~**is** the
 9 custodian of the fund and shall maintain a separate account of the
 10 money in the fund. The money in the fund ~~shall~~**must** be invested in
 11 the bonds, notes, and other evidences of indebtedness issued or
 12 insured by the United States government and its agencies, and in
 13 prime commercial paper. The state treasurer shall release money
 14 from the fund, including interest earned, in the manner and at the
 15 time directed by the board.

16 (2) Except as provided in subsection (5), each energy utility
 17 that has applied to the commission for the initiation of an energy
 18 cost recovery proceeding shall remit to the fund before or upon
 19 filing its initial application for that proceeding, and on or
 20 before the first anniversary of that application, an amount of
 21 money determined by the board in the following manner:

22 (a) In the case of an energy utility company serving at least
 23 100,000 customers in this state, its proportional share of
 24 ~~\$900,000.00~~**\$1,800,000.00** adjusted annually by a factor as provided
 25 in subsection (4). This adjusted amount ~~shall become~~**is** the new
 26 base amount to which the factor provided in subsection (4) is
 27 applied in the succeeding year. A utility's proportional share
 28 ~~shall~~**must** be calculated by dividing the company's jurisdictional
 29 total operating revenues for the preceding year, as stated in its

1 annual report, by the total operating revenues for the preceding
 2 year of all energy utility companies serving at least 100,000
 3 customers in this state. ~~This amount~~**The board** shall ~~be made~~**make**
 4 **this amount** available ~~by the board~~ for use by the attorney general
 5 for the purposes described in subsection (16).

6 (b) In the case of an energy utility company serving at least
 7 100,000 residential customers in this state, its proportional share
 8 of ~~\$650,000.00~~**\$1,300,000.00** adjusted annually by a factor as
 9 provided in subsection (4). This adjusted amount ~~shall become~~**is**
 10 the new base amount to which the factor provided in subsection (4)
 11 is applied in the succeeding year. A utility's proportional share
 12 ~~shall~~**must** be calculated by dividing the company's jurisdictional
 13 gross revenues from residential tariff sales for the preceding year
 14 by the gross revenues from residential tariff sales for the
 15 preceding year of all energy utility companies serving at least
 16 100,000 residential customers in this state. This amount ~~shall~~**must**
 17 be used for grants under subsection (10).

18 (c) In the case of an energy utility company serving fewer
 19 than 100,000 customers in this state, its proportional share of
 20 \$100,000.00 adjusted annually by a factor as provided in subsection
 21 (4). This adjusted amount ~~shall become~~**is** the new base amount to
 22 which the factor provided in subsection (4) is applied in the
 23 succeeding year. A utility's proportional share shall be calculated
 24 by dividing the company's jurisdictional total operating revenues
 25 for the preceding year, as stated in its annual report, by the
 26 total operating revenues for the preceding year of all energy
 27 utility companies serving fewer than 100,000 customers in this
 28 state. ~~This amount~~**The board** shall ~~be made~~**make this amount**
 29 available ~~by the board~~ for use by the attorney general for the

1 purposes described in subsection (16).

2 (d) In the case of an energy utility company serving fewer
3 than 100,000 residential customers in this state, its proportional
4 share of \$100,000.00 adjusted annually by a factor as provided in
5 subsection (4). This adjusted amount ~~shall become~~**is** the new base
6 amount to which the factor provided in subsection (4) is applied in
7 the succeeding year. A utility's proportional share ~~shall~~**must** be
8 calculated by dividing the company's jurisdictional gross revenues
9 from residential tariff sales for the preceding year by the gross
10 revenues from residential tariff sales for the preceding year of
11 all energy utility companies serving fewer than 100,000 residential
12 customers in this state. This amount ~~shall~~**must** be used for grants
13 under subsection (10).

14 (3) Payments made by an energy utility under subsection (2) (a)
15 or (c) are operating expenses of the utility that the commission
16 shall permit the utility to charge to its customers. Payments made
17 by a utility under subsection (2) (b) or (d) are operating expenses
18 of the utility that the commission shall permit the utility to
19 charge to its residential customers.

20 (4) For purposes of subsection (2), the board shall set the
21 factor at a level not to exceed the percentage increase in the
22 index known as the ~~consumer price index~~**Consumer Price Index** for
23 urban wage earners and clerical workers, select areas, all items
24 indexed, for the Detroit standard metropolitan statistical area,
25 compiled by the Bureau of Labor Statistics of the United States
26 Department of Labor, or any successor agency, that has occurred
27 between January of the preceding year and January of the year in
28 which the payment is required to be made. In the event that more
29 than 1 such index is compiled, the index yielding the largest

1 payment ~~shall be~~ **is** the maximum allowable factor. The board shall
2 advise utilities of the factor.

3 (5) The remittance requirements of this section do not apply
4 to an energy utility organized as a cooperative corporation under
5 sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109, and
6 grants from the fund ~~shall~~ **must** not be used to participate in an
7 energy cost recovery proceeding primarily affecting such a utility.

8 (6) In the event of a dispute between the board and an energy
9 utility about the amount of payment due, the utility shall pay the
10 undisputed amount and, if the utility and the board cannot agree,
11 the board may initiate civil action in the circuit court for Ingham
12 County for recovery of the disputed amount. The commission shall
13 not accept or take action on an application for an energy cost
14 recovery proceeding from an energy utility subject to this section
15 that has not fully paid undisputed remittances required by this
16 section.

17 (7) The commission shall not accept or take action on an
18 application for an energy cost recovery proceeding from an energy
19 utility subject to this section until 30 days after it has been
20 notified by the board that the board is ready to process grant
21 applications, will transfer funds payable to the attorney general
22 immediately upon the receipt of those funds, and will within 30
23 days approve grants and remit funds to qualified grant applicants.

24 (8) The board may accept a gift or grant from any source to be
25 deposited in the fund if the conditions or purposes of the gift or
26 grant are consistent with this section.

27 (9) The costs of operation and expenses incurred by the board
28 in performing its duties under this section and section 61,
29 including remuneration to board members, ~~shall~~ **must** be paid from

1 the fund. A maximum of 5% of the annual receipts of the fund may be
2 budgeted and used to pay expenses other than grants made under
3 subsection (10).

4 (10) The net grant proceeds ~~shall~~**must** finance a grant program
5 from which the board may award to an applicant an amount that the
6 board determines shall be used for the purposes set forth in this
7 section.

8 (11) The board shall create and make available to applicants
9 an application form. Each applicant shall indicate on the
10 application how the applicant meets the eligibility requirements
11 provided for in this section and how the applicant proposes to use
12 a grant from the fund to participate in 1 or more proceedings as
13 authorized in subsection (16) that have been or are expected to be
14 filed. Each applicant shall also identify on the application any
15 additional funds or resources, other than the grant funds being
16 requested, that are to be used to participate in the proceeding for
17 which the grant is being requested and how those funds or resources
18 will be utilized. The board shall receive an application requesting
19 a grant from the fund only from a nonprofit organization or a unit
20 of local government in this state. The board shall consider only
21 applications for grants containing proposals that are consistent
22 with subsections (16) and (17) and that serve the interests of
23 residential utility consumers. For purposes of making grants, the
24 board may consider energy conservation, energy waste reduction,
25 demand response, and rate design options to encourage energy
26 conservation, energy waste reduction, and demand response, as well
27 as the maintenance of adequate energy resources. The board shall
28 not consider an application that primarily benefits the applicant
29 or a service provided or administered by the applicant. The board

1 shall not consider an application from a nonprofit organization if
2 1 of the organization's principal interests or unifying principles
3 is the welfare of a utility or its investors or employees, or the
4 welfare of 1 or more businesses or industries, other than farms not
5 owned or operated by a corporation, that receive utility service
6 ordinarily and primarily for use in connection with the profit-
7 seeking manufacture, sale, or distribution of goods or services.
8 Mere ownership of securities by a nonprofit organization or its
9 members does not disqualify an application submitted by that
10 organization.

11 (12) The board shall encourage the representation of the
12 interests of identifiable types of residential utility consumers
13 whose interests may differ, including various social and economic
14 classes and areas of the state, and if necessary, may make grants
15 to more than 1 applicant whose applications are related to a
16 similar issue to achieve this type of representation. In addition,
17 the board shall consider and balance the following criteria in
18 determining whether to make a grant to an applicant:

19 (a) Evidence of the applicant's competence, experience, and
20 commitment to advancing the interests of residential utility
21 consumers.

22 (b) The anticipated involvement of the attorney general in a
23 proceeding and whether activities of the applicant will be
24 duplicative or supplemental to those of the attorney general.

25 (c) In the case of a nongovernmental applicant, the extent to
26 which the applicant is representative of or has a previous history
27 of advocating the interests of citizens, especially residential
28 utility consumers.

29 (d) The anticipated effect of the proposal contained in the

1 application on residential utility consumers, including the
2 immediate and long-term impacts of the proposal.

3 (e) Evidence demonstrating the potential for continuity of
4 effort and the development of expertise in relation to the proposal
5 contained in the application.

6 (f) The uniqueness or innovativeness of an applicant's
7 position or point of view as it relates to advocating for
8 residential utility consumers concerning energy costs or rates, and
9 the probability and desirability of that position or point of view
10 prevailing.

11 (13) As an alternative to choosing between 2 or more
12 applications that have similar proposals, the board may invite 2 or
13 more of the applicants to file jointly and award a grant to be
14 managed cooperatively.

15 (14) The board shall make disbursements pursuant to a grant in
16 advance of an applicant's proposed actions as set forth in the
17 application if necessary to enable the applicant to initiate,
18 continue, or complete the proposed actions.

19 (15) Any notice to utility customers and the general public of
20 hearings or other state proceedings in which grants from the fund
21 may be used ~~shall~~**must** contain a notice of the availability of the
22 fund and the address of the board.

23 (16) The annual receipts and interest earned, less
24 administrative costs, may be used only for participation in
25 administrative and judicial proceedings ~~under sections 6a, 6h, 6j,~~
26 ~~6s, and 6t,~~**before and involving the public service commission** and
27 in federal administrative and judicial proceedings that directly
28 affect the energy costs or rates paid by energy utility customers
29 in this state. Amounts that have been in the fund more than 12

1 months may be retained in the fund for future proceedings and any
2 unexpended money in the fund ~~shall be~~ **is** reserved to fulfill the
3 purposes for which it was appropriated or may be returned to energy
4 utility companies or used to offset their future remittances in
5 proportion to their previous remittances to the fund, as the board
6 and attorney general determine will best serve the interests of
7 consumers.

8 (17) The following conditions apply to all grants from the
9 fund:

10 (a) Disbursements from the fund may be used only to advocate
11 the interests of residential energy utility customers concerning
12 energy costs or rates and not for representation of merely
13 individual interests.

14 (b) The board shall attempt to maintain a reasonable
15 relationship between the payments from a particular energy utility
16 and the benefits to consumers of that utility.

17 (c) The board shall coordinate the funded activities of grant
18 recipients with those of the attorney general to avoid duplication
19 of effort, particularly as it relates to the hiring of expert
20 witnesses, to promote supplementation of effort, and to maximize
21 the number of hearings and proceedings with intervenor
22 participation.

23 (18) A recipient of a grant under subsection (10) may use the
24 grant only for the advancement of the proposed action approved by
25 the board, including, but not limited to, costs of staff, hired
26 consultants and counsel, and research.

27 (19) A recipient of a grant under subsection (10) shall
28 prepare for and participate in all discussions among the parties
29 designed to facilitate settlement or narrowing of the contested

1 issues before a hearing in order to minimize litigation costs for
2 all parties.

3 (20) A recipient of a grant under subsection (10) shall file a
4 report with the board ~~within~~**not later than** 90 days following the
5 end of the year or a shorter period for which the grant is made.
6 The report ~~shall~~**must** be made in a form prescribed by the board and
7 is subject to audit by the board. The board shall include each
8 report received under this subsection as part of the board's annual
9 report required under subsection (22). The report under this
10 subsection ~~shall~~**must** include the following information:

11 (a) An account of all grant expenditures made by the grant
12 recipient. Expenditures ~~shall~~**must** be reported within the following
13 categories:

14 (i) Employee and contract for services costs.

15 (ii) Costs of materials and supplies.

16 (iii) Filing fees and other costs required to effectively
17 represent residential utility consumers as provided in this
18 section.

19 (b) A detailed list of the regulatory issues raised by the
20 grant recipient and how each issue was determined by the
21 commission, court, or other tribunal.

22 (c) Any additional information concerning uses of the grant
23 required by the board.

24 (21) On or before July 1 of each year, the attorney general
25 shall file a report with the house and senate committees on
26 appropriations and the house and senate committees with
27 jurisdiction over energy and utility policy issues. The report
28 ~~shall~~**must** include the following information:

29 (a) An account of all expenditures made by the attorney

1 general of money received under this section. Expenditures ~~shall~~
 2 **must** be reported ~~within-in~~ the following categories:

3 (i) Employee and contract for services costs.

4 (ii) Costs of materials and supplies.

5 (iii) Filing fees and other costs required to effectively
 6 represent utility consumers as provided in this section.

7 (b) Any additional information concerning uses of the money
 8 received under this section required by the committees.

9 (22) On or before July 1 of each calendar year, the board
 10 shall submit a detailed report to the house and senate committees
 11 with jurisdiction over energy and utility policy issues regarding
 12 the discharge of duties and responsibilities under this section and
 13 section 6l during the preceding calendar year.

14 Sec. 6t. (1) The commission shall, ~~within 120 days of the~~
 15 ~~effective date of the amendatory act that added this section by~~
 16 **August 18, 2017** and every 5 years thereafter, commence a proceeding
 17 and, in consultation with the ~~Michigan agency for energy, the~~
 18 department of ~~environmental quality,~~ **environment, Great Lakes, and**
 19 **energy**, and other interested parties, do all of the following as
 20 part of the proceeding:

21 (a) Conduct an assessment of the potential for energy waste
 22 reduction in this state, based on what is economically and
 23 technologically feasible, as well as what is reasonably achievable.

24 (b) Conduct an assessment for the use of demand response
 25 programs in this state, based on what is economically and
 26 technologically feasible, as well as what is reasonably achievable.
 27 The assessment ~~shall~~ **must** expressly account for advanced metering
 28 infrastructure that has already been installed in this state and
 29 seek to fully maximize potential benefits to ratepayers in lowering

1 utility bills.

2 (c) Identify significant state or federal environmental
3 regulations, laws, or rules and how each regulation, law, or rule
4 would affect electric utilities in this state.

5 (d) Identify any formally proposed state or federal
6 environmental regulation, law, or rule that has been published in
7 the Michigan Register or the Federal Register and how the proposed
8 regulation, law, or rule would affect electric utilities in this
9 state.

10 (e) Identify any required planning reserve margins and local
11 clearing requirements in areas of this state.

12 (f) Establish the modeling scenarios and assumptions each
13 electric utility should include in addition to its own scenarios
14 and assumptions in developing its integrated resource plan filed
15 under subsection (3), including, but not limited to, all of the
16 following:

17 (i) Any required planning reserve margins and local clearing
18 requirements.

19 (ii) All applicable state and federal environmental
20 regulations, laws, and rules identified in this subsection.

21 (iii) Any supply-side and demand-side resources that reasonably
22 could address any need for additional generation capacity,
23 including, but not limited to, the type of generation technology
24 for any proposed generation facility, projected energy waste
25 reduction savings, and projected load management and demand
26 response savings.

27 (iv) Any regional infrastructure limitations in this state.

28 (v) The projected costs of different types of fuel used for
29 electric generation.

1 (g) Allow other state agencies to provide input regarding any
 2 other regulatory requirements that should be included in modeling
 3 scenarios or assumptions.

4 (h) Publish a copy of the proposed modeling scenarios and
 5 assumptions to be used in integrated resource plans on the
 6 commission's website.

7 (i) Before issuing the final modeling scenarios and
 8 assumptions each electric utility should include in developing its
 9 integrated resource plan, receive written comments and hold
 10 hearings to solicit public input regarding the proposed modeling
 11 scenarios and assumptions.

12 (2) A proceeding commenced under subsection (1) ~~shall~~**must** be
 13 completed within 120 days, and ~~shall~~**is** not ~~be~~ a contested case
 14 under chapter 4 of the administrative procedures act of 1969, 1969
 15 PA 306, MCL 24.271 to ~~24.287.~~**24.288**. The determination of the
 16 modeling assumptions for integrated resource plans made under
 17 subsection (1) is not considered a final order for purposes of
 18 judicial review. The determinations made under subsection (1) are
 19 only subject to judicial review as part of the final commission
 20 order approving an integrated resource plan under this section.

21 (3) Not later than ~~2 years after the effective date of the~~
 22 ~~amendatory act that added this section,~~ **April 20, 2019**, each
 23 electric utility whose rates are regulated by the commission shall
 24 file with the commission an integrated resource plan that provides
 25 a 5-year, 10-year, and 15-year projection of the utility's load
 26 obligations and a plan to meet those obligations, to meet the
 27 utility's requirements to provide generation reliability, including
 28 meeting planning reserve margin and local clearing requirements
 29 determined by the commission or the appropriate independent system

1 operator, and to meet all applicable state and federal reliability
2 and environmental regulations over the ensuing term of the plan.
3 The commission shall issue an order establishing filing
4 requirements, including application forms and instructions, and
5 filing deadlines for an integrated resource plan filed by an
6 electric utility whose rates are regulated by the commission. The
7 electric utility's plan may include alternative modeling scenarios
8 and assumptions in addition to those identified under subsection
9 (1).

10 (4) For an electric utility with fewer than 1,000,000
11 customers in this state whose rates are regulated by the
12 commission, the commission may issue an order implementing separate
13 filing requirements, review criteria, and approval standards that
14 differ from those established under subsection (3). An electric
15 utility providing electric tariff service to customers both in this
16 state and in at least 1 other state may design its integrated
17 resource plan to cover all its customers on that multistate basis.
18 If an electric utility has filed a multistate integrated resource
19 plan that includes its service area in this state with the relevant
20 utility regulatory commission in another state in which it provides
21 tariff service to retail customers, the commission shall accept
22 that integrated resource plan filing for filing purposes in this
23 state. However, the commission may require supplemental information
24 if necessary as part of its evaluation and determination of whether
25 to approve the plan. Upon request of an electric utility, the
26 commission may adjust the filing dates for a multistate integrated
27 resource plan filing in this state to place its review on the same
28 timeline as other relevant state reviews.

29 (5) An integrated resource plan ~~shall~~**must** include all of the

1 following:

2 (a) A long-term forecast of the electric utility's sales and
3 peak demand under various reasonable scenarios.

4 (b) The type of generation technology proposed for a
5 generation facility contained in the plan and the proposed capacity
6 of the generation facility, including projected fuel costs under
7 various reasonable scenarios.

8 (c) Projected energy purchased or produced by the electric
9 utility from a renewable energy resource. If the level of renewable
10 energy purchased or produced is projected to drop over the planning
11 periods set forth in subsection (3), the electric utility must
12 demonstrate why the reduction is in the best interest of
13 ratepayers.

14 (d) Details regarding the utility's plan to eliminate energy
15 waste, including the total amount of energy waste reduction
16 expected to be achieved annually, the cost of the plan, and the
17 expected savings for its retail customers.

18 (e) An analysis of how the combined amounts of renewable
19 energy and energy waste reduction achieved under the plan compare
20 to the renewable energy resources and energy waste reduction goal
21 provided in section 1 of the clean and renewable energy and energy
22 waste reduction act, 2008 PA 295, MCL 460.1001. This analysis and
23 comparison may include renewable energy and capacity in any form,
24 including generating electricity from renewable energy systems for
25 sale to retail customers or purchasing or otherwise acquiring
26 renewable energy credits with or without associated renewable
27 energy, allowed under section 27 of the clean and renewable energy
28 and energy waste reduction act, 2008 PA 295, MCL 460.1027, as it
29 existed before ~~the effective date of the amendatory act that added~~

1 ~~this section.~~ April 20, 2017.

2 **(f)** An analysis of how the electric utility's plan complies
3 with the requirement in section 28 of the clean and renewable
4 energy and energy waste reduction act, 2008 PA 295, MCL 460.1028,
5 that 9% of the 60% renewable energy standard is sourced from
6 distributed generation resources. The analysis shall also include
7 proposed incentive programs and ways to eliminate barriers for
8 customers to facilitate compliance with the commitment to
9 distributed generation.

10 **(g)** ~~(f)~~—Projected load management and demand response savings
11 for the electric utility and the projected costs for those
12 programs.

13 **(h)** ~~(g)~~—Projected energy and capacity purchased or produced by
14 the electric utility from a cogeneration resource.

15 **(i)** ~~(h)~~—An analysis of potential new or upgraded electric
16 transmission options for the electric utility.

17 **(j)** ~~(i)~~—Data regarding the utility's current generation
18 portfolio, including the age, capacity factor, licensing status,
19 and remaining estimated time of operation for each facility in the
20 portfolio.

21 **(k)** ~~(j)~~—Plans for meeting current and future capacity needs
22 with the cost estimates for all proposed construction and major
23 investments, including any transmission or distribution
24 infrastructure that would be required to support the proposed
25 construction or investment, and power purchase agreements.

26 **(l)** ~~(k)~~—An analysis of the cost, capacity factor, and viability
27 of all reasonable options available to meet projected energy and
28 capacity needs, including, but not limited to, existing electric
29 generation facilities in this state.

1 (m) ~~(l)~~—Projected rate impact for the periods covered by the
2 plan.

3 (n) ~~(m)~~—How the utility will comply with all applicable state
4 and federal environmental regulations, laws, and rules, and the
5 projected costs of complying with those regulations, laws, and
6 rules.

7 (o) ~~(n)~~—A forecast of the utility's peak demand and details
8 regarding the amount of peak demand reduction the utility expects
9 to achieve and the actions the utility proposes to take in order to
10 achieve that peak demand reduction.

11 (p) ~~(o)~~—The projected long-term firm gas transportation
12 contracts or natural gas storage the electric utility will hold to
13 provide an adequate supply of natural gas to any new generation
14 facility.

15 (q) **The impact of the plan on the goals identified in section**
16 **6(3)(c) to (f).**

17 (6) Before filing an integrated resource plan under this
18 section, each electric utility whose rates are regulated by the
19 commission shall issue a request for proposals to provide any new
20 supply-side generation capacity resources needed to serve the
21 utility's reasonably projected electric load, applicable planning
22 reserve margin, and local clearing requirement for its customers in
23 this state and customers the utility serves in other states during
24 the initial 3-year planning period to be considered in each
25 integrated resource plan to be filed under this section. An
26 electric utility shall define qualifying performance standards,
27 contract terms, technical competence, capability, reliability,
28 creditworthiness, past performance, and other criteria that
29 responses and respondents to the request for proposals must meet in

1 order to be considered by the utility in its integrated resource
2 plan to be filed under this section. Respondents to a request for
3 proposals may request that certain proprietary information be
4 exempt from public disclosure as allowed by the commission. A
5 utility that issues a request for proposals under this subsection
6 shall use the resulting proposals to inform its integrated resource
7 plan filed under this section and include all of the submitted
8 proposals as attachments to its integrated resource plan filing
9 regardless of whether the proposals met the qualifying performance
10 standards, contract terms, technical competence, capability,
11 reliability, creditworthiness, past performance, or other criteria
12 specified for the utility's request for proposals under this
13 section. An existing supplier of electric generation capacity
14 currently producing at least 200 megawatts of firm electric
15 generation capacity resources located in the independent system
16 operator's zone in which the utility's load is served that seeks to
17 provide electric generation capacity resources to the utility may
18 submit a written proposal directly to the commission as an
19 alternative to any supply-side generation capacity resource
20 included in the electric utility's integrated resource plan
21 submitted under this section, and has standing to intervene in the
22 contested case proceeding conducted under this section. This
23 subsection does not require an entity that submits an alternative
24 under this subsection to submit an integrated resource plan. This
25 subsection does not limit the ability of any other person to submit
26 to the commission an alternative proposal to any supply-side
27 generation capacity resource included in the electric utility's
28 integrated resource plan submitted under this section and to
29 petition for and be granted leave to intervene in the contested

1 case proceeding conducted under this section under the rules of
2 practice and procedure of the commission. The commission shall only
3 consider an alternative proposal submitted under this subsection as
4 part of its approval process under subsection (8). The electric
5 utility submitting an integrated resource plan under this section
6 is not required to adopt any proposals submitted under this
7 subsection. To the extent practicable, each electric utility is
8 encouraged, but not required, to partner with other electric
9 providers in the same local resource zone as the utility's load is
10 served in the development of any new supply-side generation
11 capacity resources included as part of its integrated resource
12 plan.

13 (7) Not later than 300 days after an electric utility files an
14 integrated resource plan under this section, the commission shall
15 state if the commission has any recommended changes, and if so,
16 describe them in sufficient detail to allow their incorporation in
17 the integrated resource plan. If the commission does not recommend
18 changes, it shall issue a final, appealable order approving or
19 denying the plan filed by the electric utility. If the commission
20 recommends changes, the commission shall set a schedule allowing
21 parties at least 15 days after that recommendation to file comments
22 regarding those recommendations, and allowing the electric utility
23 at least 30 days to consider the recommended changes and submit a
24 revised integrated resource plan that incorporates 1 or more of the
25 recommended changes. If the electric utility submits a revised
26 integrated resource plan under this section, the commission shall
27 issue a final, appealable order approving the plan as revised by
28 the electric utility or denying the plan. The commission shall
29 issue a final, appealable order no later than 360 days after an

1 electric utility files an integrated resource plan under this
2 section. Up to 150 days after an electric utility makes its initial
3 filing, the electric utility may file to update its cost estimates
4 if those cost estimates have materially changed. A utility shall
5 not modify any other aspect of the initial filing unless the
6 utility withdraws and refiles the application. A utility's filing
7 updating its cost estimates does not extend the period for the
8 commission to issue an order approving or denying the integrated
9 resource plan. The commission shall review the integrated resource
10 plan in a contested case proceeding conducted ~~pursuant to~~ **in**
11 **accordance with** chapter 4 of the administrative procedures act of
12 1969, 1969 PA 306, MCL 24.271 to ~~24.287.~~ **24.288**. The commission
13 shall allow intervention by interested persons including electric
14 customers of the utility, respondents to the utility's request for
15 proposals under this section, or other parties approved by the
16 commission. The commission shall request an advisory opinion from
17 the department of ~~environmental quality~~ **environment, Great Lakes,**
18 **and energy** regarding whether any potential decrease in emissions of
19 sulfur dioxide, oxides of nitrogen, mercury, and particulate matter
20 would reasonably be expected to result if the integrated resource
21 plan proposed by the electric utility under subsection (3) was
22 approved and whether the integrated resource plan can reasonably be
23 expected to achieve compliance with the regulations, laws, or rules
24 identified in subsection (1). The commission may take official
25 notice of the opinion issued by the department of ~~environmental~~
26 ~~quality~~ **environment, Great Lakes, and energy** under this subsection
27 pursuant to R 792.10428 of the Michigan Administrative Code.
28 Information submitted by the department of ~~environmental quality~~
29 **environment, Great Lakes, and energy** under this subsection is

1 advisory and is not binding on future determinations by the
2 department of ~~environmental quality~~ **environment, Great Lakes, and**
3 **energy** or the commission in any proceeding or permitting process.
4 This section does not prevent an electric utility from applying
5 for, or receiving, any necessary permits from the department of
6 ~~environmental quality~~ **environment, Great Lakes, and energy**. The
7 commission may invite other state agencies to provide testimony
8 regarding other relevant regulatory requirements related to the
9 integrated resource plan. The commission shall permit reasonable
10 discovery after an integrated resource plan is filed and during the
11 hearing in order to assist parties and interested persons in
12 obtaining evidence concerning the integrated resource plan,
13 including, but not limited to, the reasonableness and prudence of
14 the plan and alternatives to the plan raised by intervening
15 parties.

16 (8) The commission shall approve the integrated resource plan
17 under subsection (7) if the commission determines all of the
18 following:

19 (a) The proposed integrated resource plan represents the most
20 reasonable and prudent means of meeting the electric utility's
21 energy and capacity needs. To determine whether the integrated
22 resource plan is the most reasonable and prudent means of meeting
23 energy and capacity needs, the commission shall consider whether
24 the plan appropriately balances all of the following factors:

25 (i) Resource adequacy and capacity to serve anticipated peak
26 electric load, applicable planning reserve margin, and local
27 clearing requirement.

28 (ii) Compliance with applicable state and federal environmental
29 regulations.

1 (iii) Competitive pricing.

2 (iv) Reliability.

3 (v) Commodity price risks.

4 (vi) Diversity of generation supply.

5 (vii) Whether the proposed levels of peak load reduction and
 6 energy waste reduction are reasonable and ~~cost effective.~~ **cost-**
 7 **effective.** Exceeding the renewable energy resources and energy
 8 waste reduction goal in section 1 of the clean and renewable energy
 9 and energy waste reduction act, 2008 PA 295, MCL 460.1001, by a
 10 utility ~~shall is~~ not, in and of itself, ~~be~~ grounds for determining
 11 that the proposed levels of peak load reduction, renewable energy,
 12 and energy waste reduction are not reasonable and ~~cost~~
 13 ~~effective.~~ **cost-effective.**

14 (b) To the extent practicable, the construction or investment
 15 in a new or existing capacity resource in this state is completed
 16 using a workforce composed of residents of this state as determined
 17 by the commission. This subdivision does not apply to a capacity
 18 resource that is located in a county that lies on the border with
 19 another state.

20 (c) **The plan is consistent with state public policy goals for**
 21 **the utility sector, including the goals of meeting 60% of the**
 22 **state's electricity needs using renewable energy by 2030 and**
 23 **meeting 100% of the state's electricity needs using carbon-free**
 24 **energy by 2035.**

25 (d) **The plan promotes environmental quality and public health**
 26 **and minimizes adverse effects on human health due to power**
 27 **generation, including through the reduction of localized air**
 28 **pollutants, with a priority on improvements in communities**
 29 **disproportionately impacted by pollution and other environmental**

1 harms.

2 (e) The plan promotes the public interest. In assessing
3 whether the petition or application promotes the public interest,
4 the commission shall consider the goals in section 6(3) and any
5 significant issues raised in a public input hearing under section
6 6aa.

7 (f) ~~(e)~~—The plan meets the requirements of subsection (5).

8 (9) If the commission denies a utility's integrated resource
9 plan, the utility, within 60 days after the date of the final order
10 denying the integrated resource plan, may submit revisions to the
11 integrated resource plan to the commission for approval. The
12 commission shall commence a new contested case hearing under
13 chapter 4 of the administrative procedures act of 1969, 1969 PA
14 306, MCL 24.271 to ~~24.287.~~ **24.288**. Not later than 90 days after the
15 date that the utility submits the revised integrated resource plan
16 to the commission under this subsection, the commission shall issue
17 an order approving or denying, with recommendations, the revised
18 integrated resource plan if the revisions are not substantial or
19 inconsistent with the original integrated resource plan filed under
20 this section. If the revisions are substantial or inconsistent with
21 the original integrated resource plan, the commission has up to 150
22 days to issue an order approving or denying, with recommendations,
23 the revised integrated resource plan.

24 (10) If the commission denies an electric utility's integrated
25 resource plan, the electric utility may proceed with a proposed
26 construction, purchase, investment, or power purchase agreement
27 contained in the integrated resource plan without the assurances
28 granted under this section.

29 (11) In approving an integrated resource plan under this

1 section, the commission shall specify the costs approved for the
2 construction of or significant investment in an electric generation
3 facility, the purchase of an existing electric generation facility,
4 the purchase of power under the terms of the power purchase
5 agreement, or other investments or resources used to meet energy
6 and capacity needs that are included in the approved integrated
7 resource plan. The costs for specifically identified investments,
8 including the costs for facilities under subsection (12), included
9 in an approved integrated resource plan that are commenced within 3
10 years after the commission's order approving the initial plan,
11 amended plan, or plan review are considered reasonable and prudent
12 for cost recovery purposes.

13 (12) Except as otherwise provided in subsection (13), for a
14 new electric generation facility approved in an integrated resource
15 plan that is to be owned by the electric utility and that is
16 commenced within 3 years after the commission's order approving the
17 plan, the commission shall finalize the approved costs for the
18 **electric generation** facility only after the utility has done all of
19 the following and filed the results, analysis, and recommendations
20 with the commission:

21 (a) Implemented a competitive bidding process for all major
22 engineering, procurement, and construction contracts associated
23 with the construction of the **electric generation** facility.

24 (b) Implemented a competitive bidding process that allows
25 third parties to submit firm and binding bids for the construction
26 of an electric generation facility on behalf of the utility that
27 would meet all of the technical, commercial, and other
28 specifications required by the utility for the generation facility,
29 such that ownership of the electric generation facility vests with

1 the utility no later than the date the electric generation facility
2 becomes commercially available.

3 (c) Demonstrated to the commission that the finalized costs
4 for the new electric generation facility are not significantly
5 higher than the initially approved costs under subsection (11). If
6 the finalized costs are found to be significantly higher than the
7 initially approved costs, the commission shall review and approve
8 the proposed costs if the commission determines those costs are
9 reasonable and prudent.

10 (13) If the capacity resource under subsection (12) is for the
11 construction of an electric generation facility of 225 megawatts or
12 more or for the construction of an additional generating unit or
13 units totaling 225 megawatts or more at an existing electric
14 generation facility, the utility shall submit an application to the
15 commission seeking a certificate of necessity under section 6s.

16 (14) An electric utility shall annually, or more frequently if
17 required by the commission, file reports to the commission
18 regarding the status of any projects included in the initial 3-year
19 period of an integrated resource plan approved under subsection
20 (7).

21 (15) For power purchase agreements that a utility enters into
22 after ~~the effective date of the amendatory act that added this~~
23 ~~section~~ **April 20, 2017** with an entity that is not affiliated with
24 that utility, the commission shall consider and may authorize a
25 financial incentive for that utility that does not exceed the
26 utility's weighted average cost of capital.

27 (16) Notwithstanding any other provision of law, an order by
28 the commission approving an integrated resource plan may be
29 reviewed by the court of appeals upon a filing by a party to the

1 commission proceeding within 30 days after the order is issued. All
2 appeals of the order ~~shall~~**must** be heard and determined as
3 expeditiously as possible with lawful precedence over other
4 matters. Review on appeal ~~shall be~~**is** based solely on the record
5 before the commission and briefs to the court and is limited to
6 whether the order conforms to the constitution and laws of this
7 state and the United States and is within the authority of the
8 commission under this act.

9 (17) The commission shall include in an electric utility's
10 retail rates all reasonable and prudent costs specified under
11 subsections (11) and (12) that have been incurred to implement an
12 integrated resource plan approved by the commission. The commission
13 shall not disallow recovery of costs an electric utility incurs in
14 implementing an approved integrated resource plan, if the costs do
15 not exceed the costs approved by the commission under subsections
16 (11) and (12). If the actual costs incurred by the electric utility
17 exceed the costs approved by the commission, the electric utility
18 has the burden of proving by a preponderance of the evidence that
19 the costs are reasonable and prudent. The portion of the cost of a
20 plant, facility, power purchase agreement, or other investment in a
21 resource that meets a demonstrated need for capacity that exceeds
22 the cost approved by the commission is presumed to have been
23 incurred due to a lack of prudence. The commission may include any
24 or all of the portion of the cost in excess of the cost approved by
25 the commission if the commission finds by a preponderance of the
26 evidence that the costs are reasonable and prudent. The commission
27 shall disallow costs the commission finds have been incurred as the
28 result of fraud, concealment, gross mismanagement, or lack of
29 quality controls amounting to gross mismanagement. The commission

1 shall also require refunds with interest to ratepayers of any of
2 these costs already recovered through the electric utility's rates
3 and charges. If the assumptions underlying an approved integrated
4 resource plan materially change, or if the commission believes it
5 is unlikely that a project or program will become commercially
6 operational, an electric utility may request, or the commission on
7 its own motion may initiate, a proceeding to review whether it is
8 reasonable and prudent to complete an unfinished project or program
9 included in an approved integrated resource plan. If the commission
10 finds that completion of the project or program is no longer
11 reasonable and prudent, the commission may modify or cancel
12 approval of the project or program and unincurred costs in the
13 electric utility's integrated resource plan. Except for costs the
14 commission finds an electric utility has incurred as the result of
15 fraud, concealment, gross mismanagement, or lack of quality
16 controls amounting to gross mismanagement, if commission approval
17 is modified or canceled, the commission shall not disallow
18 reasonable and prudent costs already incurred or committed to by
19 contract by an electric utility. Once the commission finds that
20 completion of the project or program is no longer reasonable and
21 prudent, the commission may limit future cost recovery to those
22 costs that could not be reasonably avoided.

23 (18) The commission may allow financing interest cost recovery
24 in an electric utility's base rates on construction work in
25 progress for capital improvements approved under this section prior
26 to the assets' being considered used and useful. Regardless of
27 whether or not the commission authorizes base rate treatment for
28 construction work in progress financing interest expense, an
29 electric utility may recognize, accrue, and defer the allowance for

1 funds used during construction.

2 (19) An electric utility may seek to amend an approved
3 integrated resource plan. Except as otherwise provided under this
4 subsection, the commission shall consider the amendments under the
5 same process and standards that govern the review and approval of a
6 revised integrated resource plan under subsection (9). The
7 commission may order an electric utility that seeks to amend an
8 approved integrated resource plan under this subsection to file a
9 plan review under subsection (21).

10 (20) An electric utility shall file an application for review
11 of its integrated resource plan not later than 5 years after the
12 effective date of the most recent commission order approving a
13 plan, a plan amendment, or a plan review. The commission shall
14 consider a plan review under the same process and standards
15 established in this section for review and approval of an
16 integrated resource plan. A commission order approving a plan
17 review has the same effect as an order approving an integrated
18 resource plan.

19 (21) The commission may, on its own motion or at the request
20 of the electric utility, order an electric utility to file a plan
21 review. The department of ~~environmental quality~~ **environment, Great**
22 **Lakes, and energy** may request the commission to order a plan review
23 to address material changes in environmental regulations and
24 requirements that occur after the commission's approval of an
25 integrated resource plan. An electric utility must file a plan
26 review within 270 days after the commission orders the utility to
27 file a plan review.

28 (22) As used in this section, "long-term firm gas
29 transportation" means a binding agreement entered into between the

1 electric utility and a natural gas transmission provider for a set
2 period of time to provide firm delivery of natural gas to an
3 electric generation facility.

4 **Sec. 6aa. (1) The commission shall hold at least 2 public**
5 **input hearings before the commission does any of the following:**

6 (a) Issues an order in a general rate case.

7 (b) Approves an integrated resource plan proceeding under
8 section 6t.

9 (c) Approves a renewable energy plan or an amendment to a
10 renewable energy plan under section 22 of the clean and renewable
11 energy and energy waste reduction act, 2008 PA 295, MCL 460.1022.

12 (d) Approves an energy waste reduction plan or an amendment to
13 an energy waste reduction plan under section 73 of the clean and
14 renewable energy and energy waste reduction act, 2008 PA 295, MCL
15 460.1073.

16 (e) Issues a final order in any other proceeding of
17 substantial public interest, as determined by the commission.

18 (2) The commission shall set the time, place, and manner of
19 public input hearings under subsection (1) to encourage meaningful
20 participation by low-income residential customers, residential
21 customers who experience high energy burdens, and individuals,
22 communities, and community-based organizations likely to be most
23 directly impacted by the outcome of the proceeding.

24 (3) At a public input hearing held under subsection (1),
25 members of the public may do either of the following:

26 (a) Testify formally in the case, under oath or affirmation,
27 and be subject to cross-examination by any party. Formal testimony
28 made under oath is considered as evidence subject to the customary
29 rules of evidence.

1 (b) Make unsworn or unaffirmed statements and not be subject
2 to cross-examination.

3 (4) Not later than 60 days after the effective date of the
4 amendatory act that added this section, the commission shall open a
5 proceeding to consider improvements to its decision-making
6 processes and procedures with respect to all of the following:

7 (a) The accessibility and transparency of the commission's
8 decision-making processes.

9 (b) Ensuring equitable participation in the commission's
10 decision-making processes, especially by low-income residential
11 customers, residential customers that experience high energy
12 burdens, and individuals, communities, and community-based
13 organizations most directly impacted by commission decisions.

14 (c) The responsiveness of commission decisions to community
15 needs and priorities.

16 Sec. 11. (1) Except as otherwise provided in this subsection,
17 the commission shall ensure the establishment of electric rates
18 equal to the cost of providing service to each customer class. In
19 establishing cost of service rates, the commission shall ensure
20 that each class, or sub-class, is assessed for its fair and
21 equitable use of the electric grid. If the commission determines
22 that the impact of imposing cost of service rates on customers of
23 an electric utility would have a material impact on customer rates,
24 the commission may approve an order that implements those rates
25 over a suitable number of years.

26 (2) The commission shall ensure that the cost of providing
27 service to each customer class is based on the allocation of
28 production-related costs ~~based on using the 75-0-25 method of cost~~
29 ~~allocation and~~ **in a manner that reflects cost causation. In making**

1 that determination, the commission may consider the impact on cost
2 causation of resource adequacy requirements adopted by the regional
3 transmission organization in which the electric utility operates.
4 The commission may also consider the energy value, generating
5 profile, and other characteristics of different types or categories
6 of generating resources that impact cost causation. The commission
7 may approve different allocation methods for an electric utility's
8 different types or categories of generating resources if the
9 commission determines that the action allocates production costs in
10 a manner that better reflects cost causation than allocating the
11 production costs of all types and categories of the electric
12 utility's generating resources using the same method. The
13 commission, on its own motion, may direct an electric utility to
14 file an application for redetermination of a production cost
15 allocation method or methods if the commission finds that
16 circumstances warrant that action.

17 (3) The commission shall ensure that the cost of providing
18 service to each customer class is based on the allocation of
19 transmission costs based on using the 100% demand method of cost
20 allocation. The commission may modify this method if it determines
21 that this method of cost allocation does not ensure that rates are
22 equal to the cost of service.

23 (4) ~~(2)~~—Notwithstanding any other provision of this act, the
24 commission may establish eligible low-income customer or eligible
25 senior citizen customer rates. Upon filing of a rate increase
26 request, a utility shall include proposed eligible low-income
27 customer and eligible senior citizen customer rates and a method to
28 allocate the revenue shortfall attributed to the implementation of
29 those rates upon all customer classes. As used in this subsection,

1 "eligible low-income customer" and "eligible senior citizen
2 customer" mean those terms as defined in section 10t.

3 (5) ~~(3)~~—Notwithstanding any other provision of this section,
4 the commission shall establish rate schedules that ensure that
5 public and private schools, universities, and community colleges
6 are charged retail electric rates that reflect the actual cost of
7 providing service to those customers. Electric utilities regulated
8 under this section shall file with the commission tariffs to ensure
9 that public and private schools, universities, and community
10 colleges are charged electric rates as provided in this subsection.

11 Enacting section 1. This amendatory act does not take effect
12 unless all of the following bills of the 102nd Legislature are
13 enacted into law:

14 (a) Senate Bill No. ____ or House Bill No. 4759 (request no.
15 02469'23).

16 (b) Senate Bill No. ____ or House Bill No. 4761 (request no.
17 02854'23).