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ENERGY WASTE REDUCTION PLANS

Senate Bill 273 as enacted
Public Act 229 of 2023
Sponsor: Sen. Sam Singh
House Committee: Energy, Communications, and Technology
Senate Committee: Energy and Environment
Complete to 2-5-24

SUMMARY:

Senate Bill 273 amends the Clean and Renewable Energy and Energy Waste Reduction Act to revise or add provisions related to energy waste reduction plans. The bill is part of a package of energy-related bills that also includes Senate Bills 271, 277, 502, and 519 and House Bills 5120 and 5121. Senate Bill 273 will take effect February 13, 2024. Among other things described in detail below, the bill does all of the following:

- Requires utilities (including municipally owned and member-regulated electric utilities) to adopt and file periodic energy waste reduction plans beginning in 2025.
- Generally requires energy waste reduction programs to achieve, beginning in 2026, year-over-year energy savings (based on sales) of 1.5% for electric utilities and 0.875% for natural gas utilities. (Previously the standards were 1.0% and 0.75%, respectively.)
- Provides for increased financial incentives for utilities that exceed the above savings.
- Provides for programs to electrify appliances and equipment that would otherwise use fossil fuels.
- Requires energy waste reduction programs to assist low-income residential customers achieve energy savings and implement related health and safety measures.
- Requires workforce and contractor development to provide advanced energy waste reduction measures.

Energy waste reduction plans

Since December 31, 2021, ***electric providers*** whose rates are *not* regulated by the Michigan Public Service Commission (MPSC) have not been required to implement energy waste reduction programs[1] for their customers under the act. The bill requires these providers (i.e., municipally owned electric utilities and member-regulated cooperative electric utilities) to adopt an energy waste reduction plan in 2025 and every four years after 2025. Generally speaking, these plans must be filed with and reviewed and approved or rejected by the electric provider's governing body and are enforced as provided in section 99 of the act.[2]

Electric provider means any of the following:
- A person or entity that is regulated by the Michigan Public Service Commission (MPSC) for the purpose of selling electricity to retail customers in Michigan.
- A municipally owned electric utility in Michigan.
- A cooperative electric utility in Michigan.

[1] https://www.michigan.gov/mpsc/regulatory/ewr
[2] http://legislature.mi.gov/doc.aspx?mcl-460-1099

The bill also requires that, under a filing schedule established by the MPSC, an electric provider or electric and natural gas provider subject to MPSC rate regulation must file a plan in 2025 and, after 2025, must file a plan *no sooner than* eight months after receiving a final order on an integrated resource plan (IRP) as provided under section 6t of 1939 PA 3, the MPSC enabling act, unless otherwise authorized by the MPSC.[3]

A natural gas provider subject to MPSC rate regulation would have to file a plan by 2025 and every four years after 2025 under a filing schedule established by the MPSC.

Efficient electrification measures

Electricity providers must file the waste reduction plan as described above as part of a customer energy optimization plan, which can also include a plan to offer and promote ***efficient electrification measures***. (These provisions do not prohibit an electric utility from offering transportation electrification programs as approved by the MPSC.)

> ***Efficient electrification measure*** (defined in Senate Bill 271) means an electric appliance or equipment installed in an existing building to electrify, in whole or part, space heating, water heating, cooling, drying, cooking, industrial processes, or another building or industrial end use that would otherwise be served by combustion of fossil fuel on the premises and that meets best-practice standards for cost-effective energy efficiency as determined by the MPSC. The term includes any of the following:
> - A cold-climate air-source heat pump.
> - An electric clothes dryer.
> - A ground-source heat pump.
> - High-efficiency electric cooking equipment.
> - A heat pump or high-efficiency electric water heater.

Efficient electrification measures under a plan must either provide health and safety benefits to occupants of the premises or do all of the following:

- Reduce total energy consumption at the premises.[4]
- Reduce greenhouse gas emissions due to energy use over the life of the measure.
- For residential and commercial customers interconnected at secondary voltage, provide annual average energy cost savings.

An electric provider can recover the costs of an efficient electrification measures program from customers. An efficient electrification measures program cannot have the effect of increasing electric rates for customers that do not participate in the program.

Energy waste reduction standard

Under the bill, each year beginning with 2026, and subject to section 97 of the act,[5] an electric provider's energy waste reduction programs must collectively achieve incremental energy

[3] http://legislature.mi.gov/doc.aspx?mcl-460-6t (as amended by SB 502, http://legislature.mi.gov/doc.aspx?2023-SB-0502). For a description of integrated resource planning (from 2017), see: https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/info/briefs/IRP_Issue_Brief_V2_12-20-17.pdf

[4] This reduction is calculated as the amount by which the reduction in consumption of fossil fuels as a result of electrification exceeds the increase of electricity consumption resulting from the displacement of fossil fuel consumption as a result of electrification. (For conversion purposes, one kilowatt hour equals 3,412 Btus.)

[5] http://legislature.mi.gov/doc.aspx?mcl-460-1097

savings equivalent to 1.5% of total retail electricity sales in megawatt hours in the previous year, with an average life of at least eight years for energy waste reduction measures. [The act previously required an electric provider's energy waste reduction programs to collectively achieve incremental energy savings each year through 2021 equivalent to 1.0% of total annual retail electricity sales in megawatt hours in the previous year.]

The bill says that, as a goal, an electric provider's energy waste reduction programs should collectively achieve incremental energy savings equivalent to 2% of total retail electricity sales in megawatt hours in the previous year, with an average life of at least eight years for energy waste reduction measures, and that this goal should be included in the electric provider's IRP modeling scenarios under section 6t of the MPSC enabling act.

An electric provider subject to MPSC rate regulation cannot include electrification measures in the calculation of its energy waste reduction savings for purposes of meeting the energy waste reduction standard or for determining eligibility for the financial incentives described below.

If an electric provider that is *not* subject to MPSC rate regulation implements an efficient electrification measures plan, any reduction in energy consumption at a customer's premises from the conversion of fossil fuel use to electric equipment qualifies as incremental energy savings for purposes of the above provisions, with that reduction calculated as the amount by which the reduction in consumption of fossil fuels as a result of electrification exceeds the increase of electricity consumption resulting from the displacement of fossil fuel consumption as a result of electrification.

An electric provider that has a program to promote the installation of qualifying cold-climate air-source heat pumps or qualifying ground-source heat pumps that includes incentives to improve building envelope energy efficiency for participating homes can count savings from the building envelope efficiency improvements toward each year's annual savings requirement, regardless of the original heating fuel source, subject to the following conversion rates:

- Savings from building envelope efficiency improvements for preexisting propane heating must be credited to electricity savings at a conversion rate of 27 kilowatt hours per gallon of propane saved.
- Savings from building envelope efficiency improvements for preexisting oil heating must be credited to electricity savings at a conversion rate of 40 kilowatt hours per gallon of fuel oil saved.
- Savings for building envelope efficiency improvements for preexisting natural gas heating must be credited to electricity savings at a conversion rate of 29 kilowatt hours per therm of gas saved.

Under the bill, a natural gas provider's energy waste reduction program would have to achieve the following, subject to section 97 of the act:

- Each year through 2025, incremental energy savings equivalent to 0.75% of total retail natural gas sales (in decatherms or equivalent MCFs) in the previous year.
- Each year beginning with 2026, incremental energy savings equivalent to 0.875% of total retail natural gas sales (in decatherms or equivalent MCFs) in the previous year, with an average savings life of at least 10 years.

[The act previously required a natural gas provider's energy waste reduction program to achieve annual incremental energy savings each year equivalent to 0.75% of total annual retail natural gas sales (in decatherms or equivalent MCFs) in the previous year.]

A natural gas provider can claim natural gas savings resulting from investments in qualifying efficient electrification measures, or building envelope efficiency improvements made as part of projects involving qualifying efficient electrification measures, if the savings are not also counted toward an electric utility's savings goals. When a natural gas provider and an electric provider are both involved in a qualifying efficient electrification measures project, including a project that involves both building envelope efficiency and qualifying efficient electrification measures, the providers must work together to reach an agreement on how savings claims will be allocated. The MPSC may adopt standards or default provisions for the allocation of savings claims if the providers are unable to reach an agreement.

Financial incentives

The act allows an energy waste reduction plan of a provider subject to MPSC rate regulation to authorize a commensurate financial incentive for the provider for exceeding the energy waste reduction standard, determined using savings metrics described below, with payment subject to MPSC approval.

The bill allows payment of a financial incentive to be based on performance metrics, if agreed to by a provider, in addition to the savings metrics described below. The performance metrics can include metrics for delivering low-income programs.

In addition, a **natural gas provider** that spends at least 67% of its total energy waste reduction budget on ***measures that reduce space heating loads*** is eligible for an additional incentive of 2.5% of the provider's actual energy waste reduction program expenditures for the year.

> ***Measures that reduce space heating loads*** means improvements to any of the following:
> - Building envelopes, such as air sealing, insulation, or efficient windows and doors.
> - Heating distribution systems and heating system controls.
> - Ventilation systems.

Savings metrics under the bill

Under the bill, the total amount of a financial incentive for an **electric provider** that achieves the following amount of annual incremental savings, expressed as a percentage of its total annual retail electricity sales (in megawatt hours) in the previous year, with an average savings life of at least eight years, cannot exceed the following:

- For savings of more than 2.17% of sales, an incentive of the lesser of the following:
  - 35% of customer ***life cycle cost reductions***.
  - 25% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 2% of sales, up to 2.17%, an incentive of the lesser of the following:
  - 32.5% of customer life cycle cost reductions.
  - 22.5% of the actual energy waste reduction program expenditures for the year.

- For savings of more than 1.83% of sales, up to 2%, an incentive of the lesser of the following:
    - 30% of customer life cycle cost reductions.
    - 20% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 1.66% of sales, up to 1.83%, an incentive of the lesser of the following:
    - 27.5% of customer life cycle cost reductions.
    - 17.5% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 1.5% of sales, up to 1.66% of sales, an incentive of the lesser of the following:
    - 25% of customer life cycle cost reductions.
    - 15% of the actual energy waste reduction program expenditures for the year.

  Life cycle cost reductions means the net present value of life cycle cost reductions experienced by the provider's customers as a result of implementation, during the year for which the financial incentive is paid, of the energy waste reduction plan.

The total amount of the financial incentive for a **natural gas provider** that achieves the following amount of annual incremental savings expressed as a percentage of its total annual retail natural gas sales (in decatherms) in the previous year, with an average savings life of at least 10 years, cannot exceed the following:

- For savings of more than 1.25% of sales, an incentive of the lesser of the following:
    - 32.5% of customer life cycle cost reductions.
    - 22.5% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 1% of sales, up to 1.25%, an incentive of the lesser of the following:
    - 30% of customer life cycle cost reductions.
    - 20% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 0.875% of sales, up to 1%, an incentive of the lesser of the following:
    - 15% of customer life cycle cost reductions.
    - 10% of the actual energy waste reduction program expenditures for the year.

<u>Previous savings metrics</u>
Before the bill's amendments, the total amount of a financial incentive for an electric provider that achieved the following amount of annual incremental savings, expressed as a percentage of its total annual retail electricity sales (in megawatt hours) in the previous year could not exceed the following:

- For savings of more than 1.5% of sales, an incentive of the lesser of the following:
    - 30% of customer life cycle cost reductions.
    - 20% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 1.25% of sales, up to 1.5%, an incentive of the lesser of the following:
    - 27.5% of customer life cycle cost reductions.
    - 17.5% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 1% of sales, up to 1.25%, an incentive of the lesser of the following:
    - 25% of customer life cycle cost reductions.

- 15% of the provider's actual energy waste reduction program expenditures for the year.

Before the bill's amendments, the total amount of the financial incentive for a natural gas provider that achieved the following amount of annual incremental savings expressed as a percentage of its total annual retail natural gas sales (in decatherms) in the previous year could not exceed the following:

- For savings of more than 1% of sales, an incentive of the lesser of the following:
  - 30% of customer life cycle cost reductions.
  - 20% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 0.875% of sales, up to 1%, an incentive of the lesser of the following:
  - 27.5% of customer life cycle cost reductions.
  - 17.5% of the actual energy waste reduction program expenditures for the year.
- For savings of more than 0.75% of sales, up to 0.875%, an incentive of the lesser of the following:
  - 25% of customer life cycle cost reductions.
  - 15% of the actual energy waste reduction program expenditures for the year.

<u>Energy waste reduction plan amendments</u>

The bill removes provisions that previously required an electric provider subject to MPSC rate regulation to file an energy waste reduction plan amendment with the MPSC every two years beginning January 1, 2022. Under these provisions, the MPSC could approve a level of energy waste reduction in the amendment that differed from that in the provider's energy waste reduction plan if it found the amendment's proposed level (whether higher or lower) to be the most reasonable and prudent. Absent such a finding, the level in the current plan still applied.

<u>Low-income energy waste reduction programs</u>

The bill requires electric providers and natural gas providers to offer low-income energy waste reduction programs to assist ***low-income residential customers*** in both single-family and multifamily households. A program must be designed and funded with the goal that low-income residential customers achieve levels of energy waste reduction similar to or greater than those of other residential customers. Programs must include investments in health and safety measures appropriate and necessary to address conditions that impede energy waste reduction measures being implemented for low-income residential customers.[6]

> ***Low-income residential customer*** (defined in Senate Bill 271) means a customer that meets any of the following:
> - The customer's household income does not exceed 250% of the federal poverty line, as published by the U.S. Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

[6] According to the MPSC's most recent Energy Waste Reduction Report, funding under the federal Weatherization Assistance Program cannot be used for health and safety upgrades that may be needed to allow for energy waste reduction improvements, such as asbestos remediation, mold remediation, roof repair, or other structural home repairs, and utilities are currently implementing pilot projects to address these issues. https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/Legislative-Reports/Statutory-Required-Reports/FY2023/MPSC---2023-for-FY-2021-2022-Energy-Waste-Reduction-Report.pdf

- The customer's household income does not exceed 80% of the adjusted median income as determined by the U.S. Department of Housing and Urban Development.
- The customer is enrolled in a federal, state, or local program with similar income eligibility requirements, including an emergency relief or food assistance program or Medicaid.

An electric provider's annual expenditures to implement the low-income energy waste reduction programs and measures must be at least 25% of its total energy waste reduction program spending, and a natural gas provider's must be at least 35%. A provider with expenditures below the applicable level on February 13, 2024 (the bill's effective date) must increase its expenditures annually to equal or exceed that level by January 1, 2029.

Providers must work to deliver and coordinate low-income energy waste reduction programs and other offerings that serve and maximize the benefits to low-income residential customers. Energy savings must be attributed to health and safety measure spending at the average energy waste reduction program savings level and in proportion to the amount of health and safety measure spending relative to overall energy waste reduction program spending.

In addition, providers must minimize barriers to participation in low-income energy waste reduction programs and reduce overly burdensome verification processes. To that end, any of the following constitute eligible income verification:

- Proof of participation in other low-income qualified programs.
- Location in a low-income census tract.
- Other methods to be determined by the MPSC.

Workforce and contractor development

To the extent practicable, an electric or natural gas provider that serves more than 50,000 customers must invest in hiring and developing a diverse energy waste reduction workforce and contractors capable of delivering energy waste reduction measures such as building envelopes, heat pumps, health and safety measures, and other advanced efficiency and related measures.

Workforce and contractor development efforts must focus on hiring and developing, for work in energy waste reduction and related careers, workers in or from low-income and environmental justice communities and workers formerly employed in transition-impacted industries, such as fossil fuel energy workers who have employment tied to generation, transportation, and refinement, internal combustion engine vehicle workers, workers in the supply chain for internal combustion engines vehicles, and workers in the building and trades as well as any other affected workers. The development efforts would have to follow generally recognized best practices, including apprenticeship programs registered and certified with the U.S. Secretary of Labor under the federal National Apprenticeship Act.[7]

Each provider would have to annually report on its workforce and contractor development efforts to the MPSC.

[7] https://www.law.cornell.edu/uscode/text/29/chapter-4C

Alternative compliance payments
Under the bill, sections 71 to 89 of the act[8] (which address energy waste reduction plans and include, among other sections, all of the provisions described above) do not apply to a provider that makes an alternative compliance payment in an amount determined, and to an independent energy waste reduction program administrator selected, by the MPSC.

The bill requires the MPSC to initiate a proceeding by July 1, 2024, to adopt a framework energy waste reduction program to be utilized by the independent energy waste reduction program administrator in administering a program on behalf of a provider, and to determine the appropriate amount of alternative compliance payments for effective administration of energy waste reduction programs consistent with that framework. The proceeding must be held as a contested case in accordance with the Administrative Procedures Act.[9] The MPSC may, after a contested case proceeding, periodically revise the framework energy waste reduction program and the appropriate amount of alternative compliance payments.

In compliance with section 97 of the act, the MPSC must require the energy waste reduction program administrator to submit reports to the MPSC on behalf of each provider that makes an alternative compliance payment.

[Previously under the act, the provisions specified above did not apply to a provider that each year paid at least 2.0% of total utility sales revenues for the second previous year, including electricity or natural gas commodity costs, to an independent energy waste reduction program administrator selected by the MPSC.]

Repealer
Finally, the bill repeals section 6x of the MPSC enabling act,[10] which required the MPSC to authorize a shared savings mechanism for an electric utility to the extent the utility had not otherwise capitalized the costs of energy waste reduction programs, conservation, demand reduction, and other waste reduction measures. The bill also removes references in this act to both the repealed section and its shared savings mechanism.

MCL 460.1071 et seq.

FISCAL IMPACT:

Senate Bill 273 would have an indeterminate, though likely neutral, fiscal impact on the Michigan Public Service Commission and could create additional costs for municipally owned electric utilities.

The MPSC would have additional responsibilities under the bill, including a requirement to adopt a framework energy waste reduction program. While the MPSC may experience minor cost increases related to its responsibilities, existing resources would likely sufficiently absorb the new requirements. In the event that additional resources were required, the MPSC is

[8] Except for section 89(5), which provides for a symmetrical revenue decoupling true-up mechanism for certain natural gas providers. http://legislature.mi.gov/doc.aspx?mcl-460-1089
[9] See http://legislature.mi.gov/doc.aspx?mcl-306-1969-4
[10] http://legislature.mi.gov/doc.aspx?mcl-460-6x

financed primarily by public utility assessments levied on the utilities, so any additional incurred costs would likely be factored into the assessment and sufficiently mitigated.

Municipally owned electric utilities would experience costs (potentially significant, though a precise magnitude is currently unknown) to offer a low-income energy waste reduction program, if they do not currently offer such a program. The costs that would likely be incurred by municipally owned electric utilities are currently indeterminate, as they would depend on the situation of the particular utility.

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