

**SUBSTITUTE FOR
SENATE BILL NO. 273**

A bill to amend 2008 PA 295, entitled "Clean and renewable energy and energy waste reduction act," by amending sections 5, 7, 71, 73, 75, 77, 78, 91, and 93 (MCL 460.1005, 460.1007, 460.1071, 460.1073, 460.1075, 460.1077, 460.1078, 460.1091, and 460.1093), sections 5, 7, 71, 73, 75, 77, 91, and 93 as amended and section 78 as added by 2016 PA 342, and by adding sections 72, 80, and 80a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. As used in this act:

2 (a) "Efficient electrification measure" means an electric
3 appliance or equipment installed in an existing building to
4 electrify, in whole or part, space heating, water heating, cooling,

1 drying, cooking, industrial processes, or another building or
2 industrial end use that would otherwise be served by combustion of
3 fossil fuel on the premises and that meets best-practice standards
4 for cost-effective energy efficiency as determined by the
5 commission. Efficient electrification measure includes, but is not
6 limited to, any of the following:

7 (i) A cold-climate air-source heat pump.

8 (ii) An electric clothes dryer.

9 (iii) A ground-source heat pump.

10 (iv) High-efficiency electric cooking equipment.

11 (v) A heat pump or high-efficiency electric water heater.

12 (b) "Efficient electrification measures plan" means a plan to
13 offer and promote efficient electrification measures.

14 (c) "Efficient electrification measures program" means a
15 program to implement an efficient electrification measures plan.

16 (d) ~~(a)~~—"Electric provider" means any of the following:

17 (i) Any person or entity that is regulated by the commission
18 for the purpose of selling electricity to retail customers in this
19 state.

20 (ii) A municipally owned electric utility in this state.

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

22 (iv) Except as used in subpart C of part 2, an alternative
23 electric supplier licensed under section 10a of 1939 PA 3, MCL
24 460.10a.

25 (e) ~~(b)~~—"Eligible electric generator" means a methane digester
26 or renewable energy system with a generation capacity limited to
27 the customer's electric need and that does not exceed the
28 following:

29 (i) For a renewable energy system, 150 kilowatts of aggregate

1 generation at a single site.

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

4 (f) ~~(e)~~—"Energy conservation" means the reduction of customer
5 energy use through the installation of measures or changes in
6 energy usage behavior.

7 (g) ~~(d)~~—"Energy efficiency" means a decrease in customer
8 consumption of electricity or natural gas achieved through measures
9 or programs that target customer behavior, equipment, devices, or
10 materials without reducing the quality of energy services.

11 (h) ~~(e)~~—"Energy star" means the voluntary partnership among
12 the United States Department of Energy, the United States
13 Environmental Protection Agency, product manufacturers, local
14 utilities, and retailers to help promote energy efficient products
15 by labeling with the energy star logo, educate consumers about the
16 benefits of energy efficiency, and help promote energy efficiency
17 in buildings by benchmarking and rating energy performance.

18 (i) ~~(f)~~—"Energy waste reduction", subject to subdivision ~~(g)~~,
19 (j), means all of the following:

20 (i) Energy efficiency.

21 (ii) Load management, to the extent that the load management
22 reduces provider costs.

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

27 (j) ~~(g)~~—Energy waste reduction does not include electric
28 provider infrastructure projects that are approved for cost
29 recovery by the commission other than as provided in this act.

1 **(k)** ~~(h)~~—"Energy waste reduction credit" means a credit
2 certified pursuant to section 87 that represents achieved energy
3 waste reduction.

4 **(l)** ~~(i)~~—"Energy waste reduction plan" means a plan under
5 section 71.

6 **(m)** ~~(j)~~—"Energy waste reduction standard" means the minimum
7 energy savings required to be achieved under section 77. ~~or 78(1),~~
8 ~~as applicable.~~

9 **(n)** ~~(k)~~—"Federal approval" means approval by the applicable
10 regional transmission organization or other Federal Energy
11 Regulatory Commission-approved transmission planning process of a
12 transmission project that includes the transmission line. Federal
13 approval may be evidenced in any of the following manners:

14 **(i)** The proposed transmission line is part of a transmission
15 project included in the applicable regional transmission
16 organization's board-approved transmission expansion plan.

17 **(ii)** The applicable regional transmission organization has
18 informed the electric utility, affiliated transmission company, or
19 independent transmission company that a transmission project
20 submitted for an out-of-cycle project review has been approved by
21 the applicable regional transmission organization, and the approved
22 transmission project includes the proposed transmission line.

23 **(iii)** If, after October 6, 2008, the applicable regional
24 transmission organization utilizes another approval process for
25 transmission projects proposed by an electric utility, affiliated
26 transmission company, or independent transmission company, the
27 proposed transmission line is included in a transmission project
28 approved by the applicable regional transmission organization
29 through the approval process developed after October 6, 2008.

1 (iv) Any other Federal Energy Regulatory Commission-approved
2 transmission planning process for a transmission project.

3 Sec. 7. As used in this act:

4 (a) "Gasification facility" means a facility located in this
5 state that, using a thermochemical process that does not involve
6 direct combustion, produces synthesis gas, composed of carbon
7 monoxide and hydrogen, from carbon-based feedstocks (such as coal,
8 petroleum coke, wood, biomass, hazardous waste, medical waste,
9 industrial waste, and solid waste, including, but not limited to,
10 municipal solid waste, electronic waste, and waste described in
11 section 11514 of the natural resources and environmental protection
12 act, 1994 PA 451, MCL 324.11514) and that uses the synthesis gas or
13 a mixture of the synthesis gas and methane to generate electricity
14 for commercial use. Gasification facility includes the transmission
15 lines, gas transportation lines and facilities, and associated
16 property and equipment specifically attributable to such a
17 facility. Gasification facility includes, but is not limited to, an
18 integrated gasification combined cycle facility and a plasma arc
19 gasification facility.

20 (b) "Incremental costs of compliance" means the net revenue
21 required by an electric provider to comply with the renewable
22 energy standard, calculated as provided under section 47.

23 (c) "Independent transmission company" means that term as
24 defined in section 2 of the electric transmission line
25 certification act, 1995 PA 30, MCL 460.562.

26 (d) "Integrated gasification combined cycle facility" means a
27 gasification facility that uses a thermochemical process, including
28 high temperatures and controlled amounts of air and oxygen, to
29 break substances down into their molecular structures and that uses

1 exhaust heat to generate electricity.

2 (e) "Integrated pyrolysis combined cycle facility" means a
3 pyrolysis facility that uses exhaust heat to generate electricity.

4 (f) "LEED" means the leadership in energy and environmental
5 design green building rating system developed by the United States
6 Green Building Council.

7 (g) "Load management" means measures or programs that target
8 equipment or behavior to result in decreased peak electricity
9 demand such as by shifting demand from a peak to an off-peak
10 period.

11 (h) "Low-income residential customer" means a customer that
12 meets any of the following requirements:

13 (i) The customer's household income does not exceed 250% of the
14 federal poverty line, as published by the United States Department
15 of Health and Human Services under its authority to revise the
16 poverty line under 42 USC 9902.

17 (ii) The customer's household income does not exceed 80% of the
18 adjusted median income as determined by the United States
19 Department of Housing and Urban Development.

20 (iii) The customer is enrolled in a federal, state, or local
21 program with similar income eligibility requirements, including,
22 but not limited to, an emergency relief or food assistance program
23 or Medicaid.

24 (i) ~~(h)~~—"Megawatt", "megawatt hour", or "megawatt hour of
25 electricity", unless the context implies otherwise, includes the
26 steam equivalent of a megawatt or megawatt hour of electricity.

27 (j) ~~(i)~~—"Modified net metering" means a utility billing method
28 that applies the power supply component of the full retail rate to
29 the net of the bidirectional flow of kilowatt hours across the

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

20 Sec. 71. ~~(1) A provider shall file a proposed energy~~
21 ~~optimization plan with the commission within the following time~~
22 ~~period:~~

23 ~~(a) For a provider whose rates are regulated by the~~
24 ~~commission, by March 3, 2009.~~

25 ~~(b) For a cooperative electric utility that has elected to~~
26 ~~become member-regulated under the electric cooperative member-~~
27 ~~regulation act, 2008 PA 167, MCL 460.31 to 460.39, or a municipally~~
28 ~~owned electric utility, by April 2, 2009.~~

29 ~~(2) Energy optimization plans filed under subsection (1)~~

1 ~~remain in effect, subject to any amendments, as~~

2 **(1) Each provider shall have an energy waste reduction**
3 **plans. plan that has been approved as provided under section 73.**

4 **(2) ~~(3)~~**The overall goal of an energy waste reduction plan
5 ~~shall be~~**is** to help the provider's customers reduce energy waste
6 and to reduce the future costs of provider service to customers. In
7 particular, an electric provider's energy waste reduction plan
8 shall be designed to delay the need for constructing new electric
9 generating facilities and thereby protect consumers from incurring
10 the costs of such construction.

11 **(3) ~~(4)~~**An energy waste reduction plan shall do all of the
12 following:

13 (a) Propose a set of energy waste reduction programs that
14 include offerings for each customer class, including low-income
15 residential. The commission shall allow a provider flexibility to
16 tailor the relative amount of effort devoted to each customer class
17 based on the specific characteristics of the provider's service
18 territory.

19 (b) Specify necessary funding levels.

20 (c) Describe how energy waste reduction program costs will be
21 recovered as provided in section 89(2).

22 (d) Ensure, to the extent feasible, that charges collected
23 from a particular customer rate class are spent on energy waste
24 reduction programs that benefit that rate class.

25 (e) Demonstrate that the proposed energy waste reduction
26 programs and funding are sufficient to ensure the achievement of
27 applicable energy waste reduction standards.

28 (f) Specify whether the number of megawatt hours of
29 electricity or decatherms or MCFs of natural gas used in the

1 calculation of incremental energy savings under section 77 will be
2 weather-normalized or based on the average number of megawatt hours
3 of electricity or decatherms or MCFs of natural gas sold by the
4 provider annually during the previous 3 years to retail customers
5 in this state. Once the plan is approved by the commission, this
6 option shall not be changed.

7 (g) Demonstrate that the provider's energy waste reduction
8 programs, excluding program offerings to low-income residential
9 customers, will collectively be cost-effective.

10 (h) Provide for the practical and effective administration of
11 the proposed energy waste reduction programs. The commission shall
12 allow providers flexibility in designing their energy waste
13 reduction programs and administrative approach, including the
14 flexibility to determine the relative amount of effort to be
15 devoted to each customer class based on the specific
16 characteristics of the provider's service territory. A provider's
17 energy waste reduction programs or any part thereof, may be
18 administered, at the provider's option, by the provider, alone or
19 jointly with other providers, by a state agency, or by an
20 appropriate experienced nonprofit organization selected after a
21 competitive bid process.

22 (i) Include a process for obtaining an independent expert
23 evaluation of the actual energy waste reduction programs to verify
24 the incremental energy savings from each energy waste reduction
25 program for purposes of section 77. All ~~such~~ evaluations are
26 subject to public review and commission oversight.

27 **(4)** ~~(5)~~ Subject to subsection ~~(6)~~, **(5)**, an energy waste
28 reduction plan may do 1 or more of the following:

29 (a) Utilize educational programs designed to alter consumer

1 behavior or any other measures that can reasonably be used to meet
2 the goals set forth in subsection ~~(3)~~ **(2)**.

3 (b) Propose to the commission measures that are designed to
4 meet the goals set forth in subsection ~~(3)~~ **(2)** and that provide
5 additional customer benefits.

6 **(5)** ~~(6)~~ Expenditures under subsection ~~(5)~~ **(4)** shall not exceed
7 3% of the costs of implementing the energy waste reduction plan.

8 **(6) Beginning January 1, 2025, an electricity provider shall**
9 **file its energy waste reduction plan as part of a customer energy**
10 **optimization plan. A customer energy optimization plan shall**
11 **include an energy waste reduction plan and may include an efficient**
12 **electrification measures plan. This section does not prohibit an**
13 **electric utility from offering transportation electrification**
14 **programs as approved by the commission.**

15 **Sec. 72. (1) Beginning January 1, 2025, an electric provider**
16 **may implement an efficient electrification measures plan under**
17 **section 71(6). The efficient electrification measures under the**
18 **efficient electrification measures plan shall provide health and**
19 **safety benefits to occupants of the premises or satisfy all of the**
20 **following:**

21 (a) Reduce total energy consumption at the premises.

22 (b) Reduce greenhouse gas emissions due to energy use over the
23 life of the electrification measure.

24 (c) For residential and commercial customers interconnected at
25 secondary voltage, provide annual average energy cost savings.

26 (2) For the purposes of subsection (1)(a), reduction of energy
27 consumption at the customer premises shall be calculated as the
28 amount by which A exceeds B, where:

29 (a) A equals the reduction in Btu consumption of fossil fuels

1 as a result of electrification, converted to kilowatt-hour
2 equivalents by dividing by 3,412 Btus per kilowatt hour.

3 (b) B equals the increase in kilowatt hours of electricity
4 consumption resulting from the displacement of fossil fuel
5 consumption as a result of electrification.

6 (3) An efficient electrification measures program under
7 subsection (1) shall not have the effect of increasing electric
8 rates for customers that do not participate in the program.

9 (4) An electric provider may recover the costs of an efficient
10 electrification measures program.

11 Sec. 73. (1) ~~A~~ **For a provider whose rates are regulated by the**
12 **commission, the** provider's energy waste reduction plan shall be
13 filed with ~~, and~~ reviewed, ~~by, and~~ approved or rejected, **and**
14 **enforced** by the commission. ~~For a provider whose rates are~~
15 ~~regulated by the commission, the plan shall be enforced by the~~
16 ~~commission.~~ For a provider whose rates are not regulated by the
17 commission, the **provider's energy waste reduction** plan shall be
18 **filed with and reviewed and approved or rejected by its governing**
19 **body, and the plan shall be** enforced as provided in section 99.
20 Notwithstanding any other provision of this subpart, the commission
21 shall allow municipally owned electric utilities to design and
22 administer energy waste reduction plans in a manner consistent with
23 the administrative changes approved in the commission's April 17,
24 2012 order in case nos. U-16688 to U-16728 and U-17008 **or any**
25 **subsequent orders adopted by the commission.**

26 (2) The commission shall not approve a proposed energy waste
27 reduction plan unless the commission determines that the energy
28 waste reduction plan meets the utility system resource cost test
29 and ~~, subject to section 78,~~ is reasonable and prudent. In

1 determining whether the energy waste reduction plan is reasonable
2 and prudent, the commission shall review each element and consider
3 whether it would reduce the future cost of service for the
4 provider's customers. In addition, the commission shall consider at
5 least all of the following:

6 (a) The specific changes in customers' consumption patterns
7 that the proposed energy waste reduction plan is attempting to
8 influence.

9 (b) The cost and benefit analysis and other justification for
10 specific programs and measures included in a proposed energy waste
11 reduction plan.

12 (c) Whether the proposed energy waste reduction plan is
13 consistent with any long-range resource plan filed by the provider
14 with the commission.

15 (d) Whether the proposed energy waste reduction plan will
16 result in any unreasonable prejudice or disadvantage to any class
17 of customers.

18 (e) The extent to which the energy waste reduction plan
19 provides programs that are available, affordable, and useful to all
20 customers.

21 (3) Every 2 years after initial approval of an energy waste
22 reduction plan under subsection (2) **until 2025**, the commission
23 shall review the plan. **Subject to subsection (6), a provider whose**
24 **rates are not regulated by the commission shall adopt a plan in**
25 **2025, and shall readopt the plan or adopt a new plan every 4 years**
26 **thereafter. Pursuant to a filing schedule established by the**
27 **commission, an electric provider or an electric and natural gas**
28 **provider whose rates are regulated by the commission shall file a**
29 **plan in 2025, and, after 2025, shall file a plan not more than 6**

1 months after receiving a final order but not more than 16 months,
2 unless otherwise authorized by the commission, after filing an
3 integrated resource plan as provided under section 6t of 1939 PA 3,
4 MCL 460.6t. A natural gas provider whose rates are regulated by the
5 commission shall file a plan by 2025, and every 4 years thereafter,
6 pursuant to a filing schedule established by the commission. For a
7 provider whose rates are regulated by the commission, the
8 commission shall conduct a contested case hearing on the plan
9 ~~pursuant to~~ **in accordance with** the administrative procedures act of
10 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the
11 commission shall approve, with any changes consented to by the
12 provider, or reject the plan and any proposed amendments to the
13 plan.

14 (4) If a provider proposes to amend its plan at a time other
15 than during the ~~biennial~~ review process under subsection (3), the
16 provider shall file the proposed amendment with the commission.
17 After the hearing and within 90 days after the amendment is filed,
18 the commission shall approve, with any changes consented to by the
19 provider, or reject the plan and the proposed amendment or
20 amendments to the plan.

21 (5) If the commission rejects a proposed plan or amendment
22 under this section, the commission shall explain in writing the
23 reasons for its determination.

24 (6) ~~After~~ **Until** December 31, ~~2021,~~ **2024**, this section does not
25 apply to an electric provider whose rates are not regulated by the
26 commission.

27 Sec. 75. (1) An energy waste reduction plan of a provider
28 whose rates are regulated by the commission may authorize a
29 commensurate financial incentive for the provider for exceeding the

1 energy waste reduction standard. Payment of any financial incentive
2 authorized in the energy waste reduction plan **may be based on**
3 **performance metrics, if performance metrics are agreed to by a**
4 **provider, in addition to the savings metrics under subsections (2),**
5 **(3), and (4). The performance metrics may include, but are not**
6 **limited to, metrics for delivering low-income programs. Payment of**
7 **any financial incentive** is subject to the approval of the
8 commission.

9 (2) The total amount of a financial incentive for an electric
10 provider that achieves **the following amount of** annual incremental
11 savings, ~~of greater than 1.5%~~ **expressed as a percentage** of its
12 total annual retail electricity sales in megawatt hours in the
13 preceding year, **with an average savings life of at least 8 years,**
14 **shall not exceed the following:**

15 (a) For savings of greater than 2.17% of sales, an incentive
16 of the lesser of the following:

17 (i) 35% of customer life cycle cost reductions.

18 (ii) 25% of the provider's actual energy waste reduction
19 program expenditures for the year.

20 (b) For savings of greater than 2% but not greater than 2.17%
21 of sales, an incentive of the lesser of the following:

22 (i) 32.5% of customer life cycle cost reductions.

23 (ii) 22.5% of the provider's actual energy waste reduction
24 program expenditures for the year.

25 (c) For savings of greater than 1.83% but not greater than 2%
26 of sales, an incentive of the lesser of the following:

27 (i) 30% of customer life cycle cost reductions.

28 (ii) 20% of the provider's actual energy waste reduction
29 program expenditures for the year.

1 (d) For savings of greater than 1.66% but not greater than
2 1.83% of sales, an incentive of the lesser of the following:

3 (i) 27.5% of customer life cycle cost reductions.

4 (ii) 17.5% of the provider's actual energy waste reduction
5 program expenditures for the year.

6 (e) For savings of greater than 1.5% but not greater than
7 1.66% of sales, an incentive of the lesser of the following:

8 (i) 25% of customer life cycle cost reductions.

9 (ii) 15% of the provider's actual energy waste reduction
10 program expenditures for the year.

11 (3) The total amount of the financial incentive for a natural
12 gas provider that achieves the following amount of annual
13 incremental savings expressed as a percentage of its total annual
14 retail natural gas sales in decatherms in the preceding year, with
15 an average savings life of at least 10 years, shall not exceed the
16 following:

17 (a) For savings of greater than 1.25% of sales, an incentive
18 of the lesser of the following:

19 (i) 32.5% of customer life cycle cost reductions.

20 (ii) 22.5% of the provider's actual energy waste reduction
21 program expenditures for the year.

22 (b) For savings of greater than 1% but not greater than 1.25%
23 of sales, an incentive of the lesser of the following:

24 (i) 30% of customer life cycle cost reductions.

25 (ii) 20% of the provider's actual energy waste reduction
26 program expenditures for the year.

27 (c) For savings of greater than 0.875% but not greater than 1%
28 of sales, an incentive of the lesser of the following:

29 (i) 15% of customer life cycle cost reductions.

1 (ii) 10% of the provider's actual energy waste reduction
2 program expenditures for the year.

3 (4) A natural gas provider that spends at least 67% of its
4 total energy waste reduction budget on measures that reduce space
5 heating loads is eligible for an additional incentive of 2.5% of
6 the provider's actual energy waste reduction program expenditures
7 for the year. As used in this subsection, "measures that reduce
8 space heating loads" means improvements to any of the following:

9 (a) Building envelopes, such as air sealing, insulation, or
10 efficient windows and doors.

11 (b) Heating distribution systems and heating system controls.

12 (c) Ventilation systems.

13 (5) As used in this section, "life cycle cost reductions"
14 means the net present value of life cycle cost reductions
15 experienced by the provider's customers as a result of
16 implementation, during the year for which the financial incentive
17 is paid, of the energy waste reduction plan. ~~or a natural gas~~
18 ~~provider that achieves annual incremental savings of greater than~~
19 ~~1% of its total annual retail natural gas sales in decatherms in~~
20 ~~the preceding year shall not exceed the lesser of the following~~
21 ~~amounts: (a) 30% of the net present value of life cycle cost~~
22 ~~reductions experienced by the provider's customers as a result of~~
23 ~~implementation, during the year for which the financial incentive~~
24 ~~is paid, of the energy waste reduction plan.~~

25 ~~(b) 20% of the provider's actual energy waste reduction~~
26 ~~program expenditures for the year.~~

27 ~~(3) The total amount of the financial incentive for an~~
28 ~~electric provider that achieves annual incremental savings of~~
29 ~~greater than 1.25% but not greater than 1.5% of its total annual~~

~~1 retail electricity sales in megawatt hours in the preceding year or
2 a natural gas provider that achieves annual incremental savings of
3 greater than 0.875% but not greater than 1% of its total annual
4 retail natural gas sales in decatherms in the preceding year shall
5 not exceed the lesser of the following amounts:~~

~~6 (a) 27.5% of the net present value of life-cycle cost
7 reductions experienced by the provider's customers as a result of
8 implementation, during the year for which the financial incentive
9 is paid, of the energy waste reduction plan.~~

~~10 (b) 17.5% of the provider's actual energy waste reduction
11 program expenditures for the year.~~

~~12 (4) The total amount of a financial incentive for an electric
13 provider that achieves annual incremental savings of at least 1.0%
14 but not greater than 1.25% of its total annual retail electricity
15 sales in megawatt hours in the preceding year or a natural gas
16 provider that achieves annual incremental savings of at least 0.75%
17 but not greater than 0.875% of its total annual retail natural gas
18 sales in decatherms in the preceding year shall not exceed the
19 lesser of the following amounts:~~

~~20 (a) 25% of the net present value of life-cycle cost reductions
21 experienced by the provider's customers as a result of
22 implementation, during the year for which the financial incentive
23 is paid, of the energy waste reduction plan.~~

~~24 (b) 15% of the provider's actual energy waste reduction
25 program expenditures for the year.~~

~~26 Sec. 77. (1) Except as provided in section 81 and subject
27 **Subject** to section 97, **each year beginning 2026**, an electric
28 provider's energy waste reduction programs under this subpart shall
29 collectively achieve incremental energy savings ~~each year through~~~~

1 ~~2021 equivalent to 1.0% of total annual retail electricity sales in~~
2 ~~megawatt hours in the preceding year.~~ equivalent to 1.5% of total
3 retail electricity sales in megawatt hours in the preceding year,
4 with an average life of at least 8 years for energy waste reduction
5 measures.

6 (2) As a goal, an electric provider's energy waste reduction
7 programs under this subpart should collectively achieve incremental
8 energy savings equivalent to 2% of total retail electricity sales
9 in megawatt hours in the preceding year, with an average life of at
10 least 8 years for energy waste reduction measures. This goal should
11 be included in the electric provider's integrated resource plan
12 modeling scenarios under section 6t of 1939 PA 3, MCL 460.6t.

13 (3) An electric provider whose rates are regulated by the
14 commission shall not include electrification measures in the
15 calculation of its energy waste reduction savings for purposes of
16 meeting the energy waste reduction standard or for determining
17 eligibility for incentives under section 75. If an electric
18 provider whose rates are not regulated by the commission implements
19 an efficient electrification measures plan as authorized by section
20 72, any reduction in energy consumption at a customer premises from
21 the conversion of fossil fuel use to electric equipment qualifies
22 as incremental energy savings for the purposes of subsections (1)
23 and (2). The reduction in energy consumption shall be calculated as
24 provided in section 72(2).

25 (4) If an electric provider has a program to promote the
26 installation of qualifying cold-climate air-source heat pumps or
27 qualifying ground-source heat pumps and includes incentives to
28 improve building envelope energy efficiency for participating
29 homes, the electric provider may count the savings from the

1 building envelope efficiency improvements toward each year's annual
2 savings requirement, regardless of the original heating fuel
3 source, subject to all of the following:

4 (a) Savings from building envelope efficiency improvements for
5 preexisting propane heating shall be credited to electricity
6 savings at a conversion rate of 27 kWh per gallon of propane saved.

7 (b) Savings from building envelope efficiency improvements for
8 preexisting oil heating shall be credited to electricity savings at
9 a conversion rate of 40 kWh per gallon of fuel oil saved.

10 (c) Savings for building envelope efficiency improvements for
11 preexisting natural gas heating shall be credited to electricity
12 savings at a conversion rate of 29 kWh per therm of gas saved.

13 (5) ~~(2)~~—If an electric provider uses load management to
14 achieve energy savings under its energy waste reduction plan, the
15 minimum energy savings required under subsection (1) shall be
16 adjusted by an amount such that the ratio of the minimum energy
17 savings to the sum of actual expenditures for implementing its
18 approved energy waste reduction plan and the load management
19 expenditures remains constant.

20 (6) A natural gas provider may claim natural gas savings
21 resulting from investments in qualifying efficient electrification
22 measures, or investments in building envelope efficiency
23 improvements made as part of projects involving qualifying
24 efficient electrification measures, if the savings are not also
25 counted toward an electric utility's savings goals. When a natural
26 gas provider and an electric provider are both involved in a
27 qualifying efficient electrification measures project, including a
28 project that involves both building envelope efficiency and
29 qualifying efficient electrification measures, the providers shall

1 work together to reach an agreement on how savings claims will be
 2 allocated between the providers. The commission may adopt standards
 3 or default provisions for the allocation of savings claims between
 4 providers that apply if the providers are unable to reach an
 5 agreement.

6 (7) ~~(3)~~—Subject to section 97, a natural gas provider's energy
 7 waste reduction program under this subpart shall achieve ~~annual—the~~
 8 following:

9 (a) **Each year through 2025**, incremental energy savings ~~each~~
 10 ~~year~~ equivalent to 0.75% of total ~~annual—~~retail natural gas sales
 11 in decatherms or equivalent MCFs in the preceding year.

12 (b) **Each year beginning 2026, incremental energy savings**
 13 **equivalent to 0.875% of total retail natural gas sales in**
 14 **decatherms or equivalent MCFs in the preceding year with an average**
 15 **savings life of at least 10 years.**

16 (8) ~~(4)~~—Incremental energy savings under subsection (1) or ~~(3)~~
 17 (7) for a year shall be determined for a provider by adding the
 18 energy savings expected to be achieved by energy waste reduction
 19 measures implemented during that year under any energy waste
 20 reduction programs consistent with the provider's energy waste
 21 reduction plan. The energy savings expected to be achieved shall be
 22 determined using a savings database or other savings measurement
 23 approach as determined reasonable by the commission.

24 (9) ~~(5)~~—For purposes of calculations under subsection (1) or
 25 ~~(3), (7)~~, total ~~annual—~~retail electricity or natural gas sales in a
 26 year shall be based on 1 of the following at the option of the
 27 provider as specified in its energy waste reduction plan:

28 (a) The number of weather-normalized megawatt hours or
 29 decatherms or equivalent MCFs sold by the provider to retail

1 customers in this state during the year preceding the year for
2 which incremental energy savings are being calculated.

3 (b) The average number of megawatt hours or decatherms or
4 equivalent MCFs sold by the provider during the 3 years preceding
5 the year for which incremental energy savings are being calculated.

6 **(10)** ~~(6)~~ For any year after 2012, an electric provider may
7 substitute renewable energy credits associated with renewable
8 energy generated that year from a renewable energy system
9 constructed after October 6, 2008, load management that reduces
10 overall energy usage, or a combination thereof for energy waste
11 reduction credits otherwise required to meet the energy waste
12 reduction standard, if the substitution is approved by the
13 commission. The commission shall not approve a substitution unless
14 the commission determines that the substitution is cost-effective.

15 **(11)** ~~(7)~~ Renewable energy credits, load management that
16 reduces overall energy usage, or a combination thereof shall not be
17 used by a provider to meet more than 10% of the energy waste
18 reduction standard. Substitutions for energy waste reduction
19 credits shall be made at the rate of 1 renewable energy credit per
20 energy waste reduction credit.

21 Sec. 78. ~~(1) By January 1, 2022, and every 2 years thereafter,~~
22 ~~an electric provider whose rates are regulated by the commission~~
23 ~~shall file an energy waste reduction plan amendment with the~~
24 ~~commission under section 73 pursuant to a filing schedule~~
25 ~~established by the commission. The amendment shall detail the~~
26 ~~amount of energy waste reduction the electric provider proposes to~~
27 ~~achieve for the succeeding 2-year period. If the electric provider~~
28 ~~whose rates are regulated by the commission proposes a level of~~
29 ~~energy waste reduction that is higher than the level specified in~~

1 ~~the provider's current energy waste reduction plan, the commission~~
 2 ~~may approve the proposed higher level if the commission finds that~~
 3 ~~it is the most reasonable and prudent. If the electric provider~~
 4 ~~whose rates are regulated by the commission proposes a level of~~
 5 ~~energy waste reduction that is lower than the level specified in~~
 6 ~~the provider's current energy waste reduction plan, the commission~~
 7 ~~may approve the proposed lower level if the commission finds that~~
 8 ~~it is the most reasonable and prudent. If the commission finds that~~
 9 ~~the proposed lower level of energy waste reduction is not the most~~
 10 ~~reasonable and prudent, the level of energy waste reduction to be~~
 11 ~~achieved by the electric provider whose rates are regulated by the~~
 12 ~~commission for the succeeding 2-year period under the energy waste~~
 13 ~~reduction plan shall be the same as the level specified in the~~
 14 ~~provider's current energy waste reduction plan.~~

15 (1) ~~(2)~~—If over a 2-year period an electric provider whose
 16 rates are regulated by the commission cannot achieve the ~~level of~~
 17 energy waste reduction ~~provided for in the energy waste reduction~~
 18 ~~plan pursuant to subsection (1)~~ **standard** in a cost-effective
 19 manner, the provider may petition the commission in a contested
 20 case hearing under section ~~73~~ **73(3)** to establish an alternative
 21 energy waste reduction level for that provider.

22 (2) ~~(3)~~—If over a 2-year period a natural gas provider cannot
 23 achieve the energy waste reduction standard in a cost-effective
 24 manner, the natural gas provider may petition the commission to
 25 establish an alternative energy waste reduction standard for that
 26 provider.

27 (3) ~~(4)~~—A petition filed pursuant to subsection ~~(3)~~ **(2)** shall
 28 do all of the following:

29 (a) Identify the efforts taken by the natural gas provider to

1 meet the energy waste reduction standard.

2 (b) Explain why the energy waste reduction standard cannot
3 reasonably and cost-effectively be achieved.

4 (c) Propose a revised energy waste reduction standard to be
5 achieved by the natural gas provider.

6 (4) ~~(5)~~—If, based on a review of the petition filed under
7 subsection ~~(3)~~, ~~(2)~~, the commission determines that the natural gas
8 provider has been unable to reasonably and cost-effectively achieve
9 the energy waste reduction standard, the commission shall revise
10 the energy waste reduction standard as applied to the natural gas
11 provider to a level that can reasonably and cost-effectively be
12 achieved.

13 **Sec. 80. (1) Electric providers and natural gas providers**
14 **shall offer low-income energy waste reduction programs to assist**
15 **low-income residential customers in both single-family and**
16 **multifamily households.**

17 (2) A low-income energy waste reduction program shall be
18 designed and funded with the goal that low-income residential
19 customers achieve levels of energy waste reduction similar to or
20 greater than the levels of energy waste reduction of other
21 residential customers. Low-income energy waste reduction programs
22 shall include investments in health and safety measures appropriate
23 and necessary to address health and safety conditions that are
24 impediments to implementing energy waste reduction measures for
25 low-income residential customers. Providers shall work to deliver
26 and coordinate low-income energy waste reduction programs and other
27 offerings that serve and maximize the benefits to low-income
28 residential customers. Energy savings shall be attributed to health
29 and safety measure spending at the average energy waste reduction

1 program savings level and in proportion to the amount of health and
2 safety measure spending relative to overall energy waste reduction
3 program spending.

4 (3) An electric provider's annual expenditures to implement
5 the low-income energy waste reduction programs and measures shall
6 be at least 25% of total energy waste reduction program spending.
7 If an electric provider's expenditures on the effective date of the
8 amendatory act that added this section are below this level, the
9 electric provider shall annually increase expenditures to equal or
10 exceed this level by January 1, 2029.

11 (4) A natural gas provider's annual expenditures to implement
12 the low-income energy waste reduction programs and measures shall
13 be at least 35% of total energy waste reduction program spending.
14 If a natural gas provider's expenditures on the effective date of
15 the amendatory act that added this section are below this level,
16 the natural gas provider shall annually increase expenditures to
17 equal or exceed this level by January 1, 2029.

18 (5) Providers shall minimize barriers to participation in low-
19 income energy waste reduction programs and reduce overly burdensome
20 verification processes. Any of the following constitute eligible
21 income verification:

22 (a) Proof of participation in other low-income qualified
23 programs.

24 (b) Location in a low-income census tract.

25 (c) Other methods to be determined by the commission.

26 Sec. 80a. (1) To the extent practicable, a provider that
27 serves more than 50,000 customers shall invest in hiring and
28 developing a diverse energy waste reduction workforce and
29 contractors capable of delivering energy waste reduction measures

1 such as building envelopes, heat pumps, health and safety measures,
2 and other advanced efficiency and related measures.

3 (2) Workforce and contractor development efforts shall focus
4 on hiring and developing, for work in energy waste reduction and
5 related careers, workers in or from low-income and environmental
6 justice communities and workers formerly employed in transition-
7 impacted industries such as fossil fuel energy workers who have
8 employment tied to generation, transportation, and refinement,
9 internal combustion engine vehicle workers, workers in the supply
10 chain for internal combustion engines vehicles, and workers in the
11 building and trades as well as any other affected workers. The
12 development efforts shall follow generally recognized best
13 practices.

14 (3) Each provider shall annually report to the commission on
15 its workforce and contractor development efforts described under
16 subsection (2).

17 Sec. 91. (1) Except for section 89(5), sections 71 to 89 do
18 not apply to a provider that ~~each year pays not less than 2.0% of~~
19 ~~total utility sales revenues for the second year preceding,~~
20 ~~including electricity or natural gas commodity costs,~~ **makes an**
21 **alternative compliance payment in an amount determined, and** to an
22 independent energy waste reduction program administrator selected
23 by the commission. **The commission shall determine the amount of an**
24 **alternative compliance payment under this subsection.**

25 (2) The commission shall initiate a proceeding by July 1, 2024
26 to adopt a framework energy waste reduction program that shall be
27 utilized by the independent energy waste reduction program
28 administrator in administering a program on behalf of a provider,
29 and to determine the appropriate amount of alternative compliance

1 payments for effective administration of energy waste reduction
 2 programs consistent with that framework. The proceeding shall be
 3 conducted as a contested case in accordance with the administrative
 4 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The
 5 framework energy waste reduction program and the appropriate amount
 6 of alternative compliance payments adopted under this subsection
 7 may be periodically revised by the commission after a contested
 8 case proceeding.

9 (3) ~~(2)~~—An alternative compliance payment received from a
 10 provider by the energy waste reduction program administrator under
 11 subsection (1) shall be used to administer energy efficiency
 12 programs for the provider.

13 (4) ~~(3)~~—The commission shall allow a provider to recover an
 14 alternative compliance payment under subsection (1). ~~This cost~~
 15 ~~shall~~ **The alternative compliance payment shall** be recovered from
 16 residential customers by volumetric charges, from all other metered
 17 customers by per-meter charges, and from unmetered customers by an
 18 appropriate charge. Fixed, per-meter charges under this subsection
 19 may vary by rate class. ~~Charges under this subsection may be~~
 20 ~~itemized on utility bills, but shall not be itemized on or after~~
 21 ~~January 1, 2021.~~

22 (5) ~~(4)~~—A provider's alternative compliance payment under
 23 subsection (1) shall ~~only~~ be used **only** to fund energy waste
 24 reduction programs for that provider's customers. To the extent
 25 feasible, charges collected from a particular customer rate class
 26 and paid to the energy waste reduction program administrator under
 27 subsection (1) shall be devoted to energy waste reduction programs
 28 and services for that rate class.

29 (6) ~~(5)~~—Money paid to the energy waste reduction program

1 administrator under subsection (1) and not spent by the
2 administrator that year ~~shall remain~~ **remains** available for
3 expenditure the following year, subject to the requirements of
4 subsection ~~(4)~~ **(5)**.

5 (7) ~~(6)~~—The commission shall select a qualified nonprofit
6 organization to serve as an energy waste reduction program
7 administrator under this section, through a competitive bid
8 process.

9 (8) **The commission shall require that the energy waste**
10 **reduction program administrator submit reports, on behalf of each**
11 **provider that makes an alternative compliance payment, to the**
12 **commission in compliance with section 97.**

13 (9) ~~(7)~~—The commission shall arrange for a biennial
14 independent audit of the energy waste reduction program
15 administrator.

16 Sec. 93. (1) An eligible electric customer is exempt from
17 charges the customer would otherwise incur as an electric customer
18 under ~~section~~ **sections 72, 89, ~~or~~ and 91** if the customer files with
19 its electric provider and implements a self-directed energy waste
20 reduction plan as provided in this section.

21 (2) Subject to subsection (3), an electric customer is not
22 eligible under subsection (1) unless it is a commercial or
23 industrial electric customer and had an annual peak demand in the
24 preceding year of at least 1 megawatt in the aggregate at all sites
25 to be covered by the self-directed plan.

26 (3) The eligibility requirements of subsection (2) do not
27 apply to a commercial or industrial customer that installs or
28 modifies an electric energy efficiency improvement under a property
29 assessed clean energy program pursuant to the property assessed

1 clean energy act, 2010 PA 270, MCL 460.931 to 460.949.

2 (4) The commission shall by order establish the rates, terms,
3 and conditions of service for customers related to this subpart.

4 (5) The commission shall by order do all of the following:

5 (a) Require a customer to utilize the services of an energy
6 waste reduction service company to develop and implement a self-
7 directed plan. This subdivision does not apply to a customer that
8 had an annual peak demand in the preceding year of at least 2
9 megawatts at each site to be covered by the self-directed plan or
10 10 megawatts in the aggregate at all sites to be covered by the
11 self-directed plan.

12 (b) Provide a mechanism to recover from customers under
13 subdivision (a) the costs for provider level review and evaluation.

14 (c) Provide a mechanism to cover the costs of the low-income
15 energy waste reduction program under section 89.

16 (6) All of the following apply to a self-directed energy waste
17 reduction plan under subsection (1):

18 (a) The self-directed plan shall be a multiyear plan for an
19 ongoing energy waste reduction program.

20 (b) The self-directed plan shall provide for aggregate energy
21 savings that each year meet or exceed the energy waste reduction
22 standards based on the electricity purchases in the previous year
23 for the site or sites covered by the self-directed plan.

24 (c) Under the self-directed plan, energy waste reduction shall
25 be calculated based on annual electricity usage. Annual electricity
26 usage shall be normalized so that none of the following are
27 included in the calculation of the percentage of incremental energy
28 savings:

29 (i) Changes in electricity usage because of changes in business

1 activity levels not attributable to energy waste reduction.

2 (ii) Changes in electricity usage because of the installation,
3 operation, or testing of pollution control equipment.

4 (d) The self-directed plan shall specify whether electricity
5 usage will be weather-normalized or based on the average number of
6 megawatt hours of electricity sold by the electric provider
7 annually during the previous 3 years to retail customers in this
8 state. Once the self-directed plan is submitted to the provider,
9 this option shall not be changed.

10 (e) The self-directed plan shall outline how the customer
11 intends to achieve the incremental energy savings specified in the
12 self-directed plan.

13 (7) A self-directed energy waste reduction plan shall be
14 incorporated into the relevant electric provider's energy waste
15 reduction plan. The self-directed plan and information submitted by
16 the customer under subsection ~~(10)~~ **(9)** are confidential and exempt
17 from disclosure under the freedom of information act, 1976 PA 442,
18 MCL 15.231 to 15.246. Projected energy savings from measures
19 implemented under a self-directed plan shall be attributed to the
20 relevant provider's energy waste reduction programs for the
21 purposes of determining annual incremental energy savings achieved
22 by the provider under section 77. ~~or 81, as applicable.~~

23 (8) Once a customer begins to implement a self-directed plan
24 at a site covered by the self-directed plan, that site is exempt
25 from energy waste reduction program charges under ~~section~~ **sections**
26 **72, 89, ~~or~~ and 91** and is not eligible to participate in the
27 relevant electric provider's energy waste reduction programs.

28 (9) A customer implementing a self-directed energy waste
29 reduction plan under this section shall annually submit to the

1 customer's electric provider a brief report documenting the energy
2 efficiency measures taken under the self-directed plan during the
3 previous year, and the corresponding energy savings that will
4 result. The report shall provide sufficient information for the
5 provider and the commission to monitor progress toward the goals in
6 the self-directed plan and to develop reliable estimates of the
7 energy savings that are being achieved from self-directed plans.
8 The customer report shall indicate the level of incremental energy
9 savings achieved for the year covered by the report and whether
10 that level of incremental energy savings meets the goal set forth
11 in the customer's self-directed plan. If a customer submitting a
12 report under this subsection wishes to amend its self-directed
13 plan, the customer shall submit with the report an amended self-
14 directed plan. A report under this subsection shall be accompanied
15 by an affidavit from a knowledgeable official of the customer that
16 the information in the report is true and correct to the best of
17 the official's knowledge and belief. If the customer has retained
18 an independent energy waste reduction service company, the
19 requirements of this subsection shall be met by the energy waste
20 reduction service company.

21 (10) An electric provider shall provide an annual report to
22 the commission that identifies customers implementing self-directed
23 energy waste reduction plans and summarizes the results achieved
24 cumulatively under those self-directed plans. The commission may
25 request additional information from the electric provider. If the
26 commission has sufficient reason to believe the information is
27 inaccurate or incomplete, it may request additional information
28 from the customer to ensure accuracy of the report.

29 (11) If the commission determines after a contested case

1 hearing that the minimum energy waste reduction goals under
2 subsection (6) (b) have not been achieved at the sites covered by a
3 self-directed plan, in aggregate, the commission shall order the
4 customer or customers collectively to pay to this state an amount
5 calculated as follows:

6 (a) Determine the proportion of the shortfall in achieving the
7 minimum energy waste reduction goals under subsection (6) (b).

8 (b) Multiply the figure under subdivision (a) by the energy
9 waste reduction charges from which the customer or customers
10 collectively were exempt under subsection (1).

11 (c) Multiply the product under subdivision (b) by a number not
12 less than 1 or greater than 2, as determined by the commission
13 based on the reasons for failure to meet the minimum energy waste
14 reduction goals.

15 (12) If a customer has submitted a self-directed plan to an
16 electric provider, the customer, the customer's energy waste
17 reduction service company, if applicable, or the electric provider
18 shall provide a copy of the self-directed plan to the commission
19 upon request.

20 (13) By September 1, 2010, following a public hearing, the
21 commission shall establish an approval process for energy waste
22 reduction service companies. The approval process shall ensure that
23 energy waste reduction service companies have the expertise,
24 resources, and business practices to reliably provide energy waste
25 reduction services that meet the requirements of this section. The
26 commission may adopt by reference the past or current standards of
27 a national or regional certification or licensing program for
28 energy waste reduction service companies. However, the approval
29 process shall also provide an opportunity for energy waste

1 reduction service companies that are not recognized by such a
2 program to be approved by posting a bond in an amount determined by
3 the commission and meeting any other requirements adopted by the
4 commission for the purposes of this subsection. The approval
5 process for energy waste reduction service companies shall require
6 adherence to a code of conduct governing the relationship between
7 energy waste reduction service companies and electric providers.

8 (14) The department of licensing and regulatory affairs shall
9 maintain on the department's website a list of energy waste
10 reduction service companies approved under subsection (13).

11 Enacting section 1. Section 6x of 1939 PA 3, MCL 460.6x, is
12 repealed.