

Michigan's New Energy Legislation

Presented by

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Michigan Energy Legislation 2008

STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008

Introduced by Reps. Accavitti, Angerer, Mayes, Hoggood, Gaffney, Laloy and Huns

ENROLLED HOUSE BILL No. 5524

AN ACT to amend 1989 PA 8, 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 establish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; 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 provide for a restructuring of the manner in which energy is provided in this state; 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 6a, 10, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, and 10j (MCL 460.6a, 460.10, 460.10a, 460.10b, 460.10c, 460.10d, 460.10e, 460.10f, 460.10g, 460.10h, and 460.10j), section 6a as amended by 1992 PA 97, sections 10, 10b, 10c, 10e, 10f, 10g, and 10j as added by 2000 PA 141, section 10a as amended by 2004 PA 58, section 10d as amended by 2002 PA 460, and section 10g as amended by 2001 PA 48, and by adding sections 4a, 6a, 6b, 10dd, and 11.

The People of the State of Michigan enact:

Sec. 4a. (1) Except as otherwise provided under this act, the commission is subject to Executive Reorganization Order No. 2008-1, MCL 446.3011.

(2) Funding for the commission shall be as provided under 1972 PA 299, MCL 460.111 to 460.120, and as otherwise provided by law.

(3) The commission shall be an autonomous entity within the department of labor and economic growth. The statutory authority, powers, duties, and functions, including personnel, property, budgeting, records, procurement, and other management related functions, shall be retained by the commission. The department of labor and economic growth shall provide support and coordinated services as requested by the commission and shall be reimbursed for that service as provided under subsection (2).

(4) The chairperson of the commission shall be appointed as provided under section 2.

(5) Nothing in this section shall be construed to supersede the transfers of authority made under the following executive orders:

- (a) Executive Reorganization Order No. 2001-1, MCL 18.41.
- (b) Executive Reorganization Order No. 2002-18, MCL 18.821.
- (c) Executive Reorganization Order No. 2006-1, MCL 446.2021.
- (d) Executive Reorganization Order No. 2007-21, MCL 18.45.

(185)

STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008

Introduced by Senators Birkholz, Kahn, Hardiman, Jansen, Switalski and Borcia

ENROLLED SENATE BILL No. 213

AN ACT to require certain providers of electric service to establish renewable energy programs; to require certain providers of electric or natural gas service to establish energy optimization programs; to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy optimization service companies; to provide for certain charges on electric and natural gas bills; to promote energy conservation by its agencies and the public; to create a wind energy resources zone board and provide for its powers and duties; to assist the creation and implementation of wind energy resources zones; to provide for expedited transmission line siting certificates; to provide for a net metering program and the responsibilities of certain providers of electric service as customers with respect to net metering; to provide for fees; to prescribe the powers and duties of certain state agency and officials; to require the promulgation of rules and the issuance of orders; and to provide for civil sanctions, remedies and penalties.

The People of the State of Michigan enact:

PART 1. GENERAL PROVISIONS

Sec. 1. (1) This act shall be known and may be cited as the "clean, renewable, and efficient energy act".

(2) The purpose of this act is to promote the development of clean energy, renewable energy, and energy optimization through the implementation of a clean, renewable, and energy efficient standard that will cost-effective do all of the following:

- (a) Diversify the resources used to reliably meet the energy needs of consumers in this state.
- (b) Provide greater energy security through the use of indigenous energy resources available within the state.
- (c) Encourage private investment in renewable energy and energy efficiency.
- (d) Provide improved air quality and other benefits to energy consumers and citizens of this state.

Sec. 8. As used in this act:

- (a) "Advanced cleaner energy" means electricity generated using an advanced cleaner energy system.
- (b) "Advanced cleaner energy credit" means a credit certified under section 48 that represents generated advanced cleaner energy.
- (c) "Advanced cleaner energy system" means any of the following:
 - (i) A gasification facility.
 - (ii) An industrial cogeneration facility.
 - (iii) A coal-fired electric generating facility if 86% or more of the carbon dioxide emissions are captured and permanently geologically sequestered.

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STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008

Introduced by Senators Birkholz, Kahn, Pappageorge, Bishop, Sanborn, Anderson, Busham, Hardiman, Allen, Jansen, Switalski, Kulpers and Richardville

ENROLLED SENATE BILL No. 1048

AN ACT to amend 1967 PA 281, entitled "An act to amend deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net home; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," (MCL 206.1 to 206.282) by adding section 258.

The People of the State of Michigan enact:

Sec. 258. (1) Except as otherwise provided under this subsection, for tax years that begin after December 31, 2006 and before January 1, 2012, a taxpayer with adjusted gross income equal to or less than \$57,000.00 or for a husband and wife filing a joint return as provided in section 811 with adjusted gross income equal to or less than \$75,000.00 who purchase and installs a qualified home improvement for his or her principal residence during the tax year may claim a credit against the tax imposed by this act equal to 10% of the amount paid by the taxpayer in the tax year for the purchase and installation of such qualified home improvement or \$75.00, or for a husband and wife filing a joint return, \$150.00, whichever is less, for each qualified home improvement purchased and installed during the tax year. However, a taxpayer shall not claim more than 1 credit under each subparagraph of subsection (8)(c) during the same tax year. To claim the credit allowed under this subsection, the taxpayer shall, in the manner required by the department, provide verification of the amount paid for the purchase and installation of the qualified home improvement along with documentation of its compliance with the energy star energy efficiency guidelines. If the credit allowed under this subsection exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(2) For tax years that begin after December 31, 2006 and before December 31, 2012, a taxpayer with adjusted gross income equal to or less than \$55,000.00 or for a husband and wife filing a joint return as provided in section 811 equal to or less than \$130,000.00 may claim a credit against the tax imposed by this act equal to the percentages provided by this subsection of the amount authorized for the customer's electric utility under section 462(2a) of the clean, renewable, and efficient energy act and paid during the tax year. If the credit allowed under this subsection exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded. The percentages of the amounts authorized shall be as follows:

- (A) For tax years that begin after December 31, 2006 and before January 1, 2010, 5%.
- (B) For tax years that begin after December 31, 2009 and before January 1, 2012, 20%.

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Executive Summary

- RPS Plans & 10% RPS by 2015, with interim steps for 2012-13-14. Applies to all Michigan electricity providers. Large utilities can own only 50% of new renewable facilities.
- Energy Optimization Plans & energy efficiency and conservation programs for all customer classes. High standards for state government efficiency & conservation.

Executive Summary(2)

- Wind Resource Zones including: expedite transmission planning, siting & construction
- Net metering for <20kW renewable generators
- Michigan income tax credits for some home energy improvements
- Limits Michigan's electric customer choice to 10% of load

Clean, Renewable, and Efficient Energy Act of 2008

- PA 295 (SB 213)
RPS, Energy Optimization Plans, State Government Efficiency & Conservation, Wind Resource Zones, Net Metering
- PA 287 (SB 1048)
Tax credits for various home improvements
- PA 286 (HB 5524)
Amendment to 2000 PA 141: Michigan Customer Choice & Electricity Reliability Act

PA 295 (SB 213)

- Part 1: General Provisions
 - Sections 3, 5, 7, 9, 11, 13 definitions
- Part 2: Energy Standards
 - Subpart A: Renewable Energy
 - Subpart B: Energy Optimization
- Part 3: State Government Energy Efficiency and Conservation
- Part 4: Wind Energy Resource Zones
- Part 5: Net Metering

PA 295 Part 2 Subpart A (RPS)

- RPS of 10% by 2015 for all Michigan electricity suppliers
- Provider plans filed 90 days after temporary Commission order
- Interim targets
- Capacity targets for large providers

PA 295 Part 6: MPSC Rules Promulgation

- Under §191 the PSC shall issue a temporary order within 60 days (December 5, 2008) implementing this act including, but not limited to, all of the following:
 - Formats of renewable energy plans
 - Guidelines for utility requests for proposals for new renewable energy
- Within 1 year, the PSC shall promulgate rules to implement this act

§21 RPS Plans for Rate Regulated Utilities

- Rate-regulated electric providers must file plans within 90 days of the Commission's temporary order (March 5, 2009)
- For utilities >1,000,000
 - “fair and nondiscriminatory” bidding process required to acquire renewable energy
- MPSC issues order in a contested case hearing on plans, within 90 days of plan filing (June 3, 2009)
 - Is Plan reasonable and prudent?
 - Will life-cycle cost of renewable energy not exceed expected life-cycle cost of new conventional coal-fired facility?
 - Commission approves, approves with changes consented by applicant, or rejects the plan
- Plans are reviewed and updated every two years or when application to amend is filed by electric provider

§23 RPS Plans for AESs & Member-Regulated Cooperatives

- AESs file plans within 90 days, Coops 120 days, after the Commission's temporary order (March 5, 2009/April 4, 2009)
- MPSC invites public comment on plans, within 90 days of plan filing (June 3, 2009/August 2, 2009)
 - Commission approves, approves with changes consented by applicant, or rejects the plan
 - Commission must explain reasons, in writing, if it finds the plan does not comply with the Act
- Plans are reviewed and updated every two years or when application to amend is filed by AES or Coop

§25 RPS Plans for Municipals

- Muni files plan within 120 days, after the Commission's temporary order (April 4, 2009).
- Either Muni Board or MPSC invites public comment on plans, within 90 days of plan filing (August 2, 2009)
 - Commission determines whether plan complies with the Act & explains, in writing, if it finds the plan does not comply with the Act
- Plans are reviewed and updated every two years or when application to amend is filed by Muni

RPS for All Suppliers (§27(3)&(4))

- 10% by 2015 and at least that same number of MWh per year for 2016 and after
- Goal set using 2007 baseline
- Interim steps required towards the final goal
 - 20% for 2012
 - 33% for 2013
 - 50% for 2014
 - 100% for 2015.

§27(1)&(2) RPS for Utilities with >1,000,000 Customers

- Consumers:
 - 200 MW renewable energy capacity portfolio by 2013
 - 500 MW by 2015
- Edison:
 - 300 MW renewable energy capacity portfolio by 2013
 - 600 MW by 2015
- §33 ownership limits – no more than 50% owned

What counts towards RPS?

- Generation from “renewable energy systems”
- Includes pre-existing capacity
 - plus new power purchase agreement contracts
 - plus new facilities owned by the utility
- RECs with or without associated energy
- Special details for biomass cofiring (§33(2)) and pre-existing PURPA facilities (§35)

What counts towards RPS? (2)

- Energy optimization credits, advanced cleaner energy credits (with or without the associated energy), if “substitution” is approved by the Commission.
 - Commission approval not needed for substituting “industrial cogeneration”
 - Substitution approval by Commission requires determination of cost-effectiveness plus CO₂ emissions benefits
 - ACECs shall not be used to meet more than 10% of the standard
 - Credits for energy optimization, plasma arc gasification, & industrial cogeneration substituted 1 to 1; for other Advanced Cleaner Energy Credits substituted 10 ACEC = 1 REC

RECs & ACECs

- Commission shall establish a REC certification and tracking program (§41)
- Commission shall establish an ACEC certification and tracking program (§43)

Special Provisions for RECs

- Special treatment for pre-existing PURPA facilities; 4 RECs to utility, 1 REC to QF owner (§35)
- Not for preexisting waste-to-energy projects (§39)
- Not for MWh sold in Green Pricing programs (§39)
- RECs expire in maximum 3-years
- RECs can be “back-dated” by up to 120 days to meet a previous year’s RPS

Special “Michigan Incentive” RECs (§39)

- **2 REC** for each MWh of solar generation
- **1/5 REC** for each MWh of non-wind generation available on-peak
- **1/5 REC** for each MWh of renewable generation stored & then used on-peak (from advanced energy storage, pumped hydro)
- **1/10 REC** for each MWh of generation from Michigan-made equipment, and for generation constructed by a Michigan workforce, for the first 3 years of production

RPS Cost Recovery (§45)

- Incremental costs of renewables will be levelized & collected over 20-years
 - Avoided costs of new conventional coal plant will be considered
- Charges: Not more than \$3/month for residential; \$16.58/month for commercial (~\$200/yr); \$187.50/month for industrial (~2,250/yr)
- Both RPS and Energy Optimization Charges, and Energy Optimization Savings, will be itemized on residential bills

Circuit Breakers and Off-Ramps

- Time extensions to meet RPS (up to 2 years); good faith efforts; good cause; cost; siting, zoning, permitting (§31)
- What happens if a provider fails to meet RPS requirements (§53)

PA 295 Part 4:

Wind Energy Resource Zones

- Commission creates 9-member board, within 60 days (§143)
- Board responsibilities (§145):
 - Study Michigan wind resources, potential, viability, land availability, requests in interconnection queues
 - Issue report within 240 days, identifying regions with highest wind energy harvest potential
 - Submit copies of report to all local legislative bodies located in the identified regions
 - Accept comments from legislative bodies (63 days); hold hearings (may include hearings in each region identified)
 - Issue final report (45 days)
 - Board dissolved 90 days after final report is issued

PA 295 Part 4:

Wind Energy Resource Zones (2)

- After the Board's findings, the Commission issues an order which identifies the primary wind energy resource zones, and may identify additional zones.
- After Board's final report, utilities and transmission companies identify necessary existing or new transmission infrastructure to deliver maximum and minimum wind potential for each region, and submit that information to the Board for its review
- Commission may issue expedited siting certificates for wind energy resource zone transmission

PA 295 Part 5: Net Metering

- Applies to MPSC rate-regulated electric utilities and alternative electric suppliers
- Only for renewable generators sized to meet the customer's electric needs
- MPSC to establish a statewide net metering program by order not later than 180 days after the effective date of this act.
- Program size is 1% of in-state peak load
 - 0.5% for 20 kW or smaller generators
 - 0.25% for >20 kW to 150 kW generators
 - 0.25% for methane digesters up to 550 kW

PA 295 Part 5: Net Metering (2)

- Eligible net metering equipment and its installation is certified by a nationally recognized testing laboratory to IEEE 1547.1 testing standards and in compliance with UL 1741 scope 1.1A
- Utility testing and approval must be completed prior to the start of operation
- Costs of testing and inspection for utilities are considered a cost of operating a net metering program and are recoverable

PA 295 Part 5: Net Metering (3)

- §175 addresses costs and cost recovery
 - Net metering application fee not to exceed \$100
 - > 20 kW systems pay all interconnection costs
 - > 150 kW systems pay standby costs
 - Utilities with more than 1 million customers can recover non-fuel net metering costs in base rates
 - For other utilities, the PSC will develop a cost recovery mechanism for contemporaneous recovery of non-fuel costs
 - All utilities can recover energy costs in the MPSC power supply cost recovery (PSCR) mechanism

SB 213 Part 5: Net Metering (4)

- §177 provides direction on metering
 - Meters will be used to determine net energy usage
 - Utilities with > 1 million customers may provide this meter at no additional charge
 - Other utilities shall provide this meter at cost and only charge customer for the incremental cost over that of a standard meter
 - >20 kW systems will utilize a generator meter
 - >150 kW systems will pay the costs of installing new meters

PA 295 Part 5: Net Metering (5)

Program includes 3 billing methods

- 20 kW and under systems will be billed based on net kWh
- >20 kW up to 150 kW will receive the generation component of the full retail rate for their deliveries to the utility and pay full retail rate for all kWh delivered by the utility
- >150 kW will pay full distribution charges for all usage

PA 295 Part 5: Net Metering (6)

- Net Metering Credit will be given for monthly excess generation Either: (1) Monthly average real-time locational marginal price (LMP); (2) Time-period average LMP for users on time-of-use or hourly rates; or (3) Power supply component of the full retail rate
- Shall appear on the next month's bill and will rollover indefinitely
- Shall be limited to the total power supply charges on that bill

PA 295 Part 5: Net Metering (7)

- Renewable energy certificates (RECs) are owned by the generator §179
- §181 gives the PSC authority to order remedies & penalties if an electric utility does not comply with a net metering provision or related PSC order

Questions?