

Approval Process for Energy Waste Reduction Service Companies

Public Act 295 of 2008 (Act 295), MCL 460.1001 et seq., which became effective on October 6, 2008, requires certain customers, who are eligible to self-direct their own energy waste reduction (EWR) plan, to utilize the services of an energy waste reduction service company (EWRSC) to design and implement the EWR plan. Act 295 requires the Commission to establish an approval process for these companies. The Commission must issue an order to establish the approval process and then maintain a list of approved EWRSCs on its website.

A. Initial Submission of EWRSC Application

Companies desiring to prepare energy waste reduction (EWR) plans on behalf of eligible self-direct electric customers must submit fully completed applications to the Commission for consideration. The applicant shall provide information related to its financial, managerial and technical capabilities, and past performance in energy efficiency services.

1. An EWRSC submits its application for review. Information pertaining to a new EWRSC's creditworthiness is to be disclosed as part of the Commission's investigation, not as part of the EWRSC's initial application. For additional consideration of credit worthiness, an EWRSC shall provide proof of posting a bond or letter of credit in the amount of \$100,000. The bond or letter of credit shall comply with the template provided by the Commission.
2. The Commission reviews the application and the EWRSC's Terms and Conditions Agreement submission, consults with any needed experts and the applicant, and makes a determination of approval or non-approval of the application. The review process time will vary depending on initial application contents, additional information requirements, and necessary meetings with the applicant to validate provided information.
3. The Commission will issue an *ex parte* order pursuant to a determination that the applicant meets or does not meet the approval criteria.

B. Applicant Requirements

An EWRSC shall become familiar with its customer's facilities, processes, and energy use, and normalize the energy use to remove energy savings due to business changes such as closures, staff reduction, hours of operation, production levels, or pollution control. An EWRSC shall educate its potential clients about the penalties the client may face as a result of not meeting the requirements of Act 295. An EWRSC shall design and implement a multi-year (two year minimum) self-direct EWR plan that satisfies the requirements placed on the customer by Act 295 and subsequent rules. The EWR plan shall be filed with the customer's electric provider for review. When the final plan has been accepted by the electric provider without revision, the EWRSC shall make the plan available for review by the Commission. An EWRSC shall file biennial reports documenting progress in implementing and achieving the goals of the EWR plan. To demonstrate the expertise, resources, and business practices necessary to complete these tasks, and to protect electric customers, it is prudent to apply approval criteria to potential EWRSCs.

1. Notwithstanding the requirements of Section A(1), an EWRSC shall provide proof of posting a bond or letter of credit concurrent with the EWR plan being submitted to the electric provider. This proof shall also be included with the submittal to the Commission. The bond or letter of credit amount shall be sufficient to cover the avoided surcharges, for a period of one year, of the customers included in the plan.
2. The EWRSC shall agree to adhere to the Code of Conduct between EWRSCs and electric providers on file with the Commission.
3. An EWR plan shall be prepared by an individual with the following qualifications for electric customers as described under (4):
 - a. A professional engineer (PE), currently licensed by the State of Michigan.
 - b. A certified energy manager (CEM) with current certification by the Association of Energy Engineers (AEE).
 - c. A Master Energy Analyst (MEA) with current certification by Ferris State University (FSU).
 - d. A Building Analyst Professional with current certification by Building Performance Institute (BPI).
 - e. An Energy Rater with current certification by Residential Energy Services Network (RESNET).
 - f. A Building Energy Modeling Professional (BEMP) with current certification by the American Society of Heating Refrigerating and Air-Conditioning Engineers (ASHRAE).
4. The following customer types shall have their EWR plans designed and implemented by EWRSCs with the appropriate qualifications under (3):
 - a. Heavy industrial: PE. The PE shall seal the EWR plan per Act 299 of 1980.
 - b. Medium industrial: CEM or PE.
 - c. Light industrial: CEM, FSU or PE.
 - d. Medium and large commercial: CEM or PE.
 - e. Small commercial: CEM, PE, FSU, BPI, RESNET or BEMP.
5. A potential EWRSC that does not possess any of the qualifications listed in 3. may be approved by the Commission provided:
 - a. The company meets all approval criteria contained herein.
 - b. The required bond or letter of credit to obtain approval shall be \$150,000.
 - c. The company has been in business for 3 years providing services related to energy efficiency, building systems, or building construction.
 - d. The company may not design and implement EWR plans for heavy industrial customers.

C. Application Information

The application shall contain the following information, which will remain on record at the Commission.

1. Applicant's business name and type of legal entity (corporate, type of partnership, etc.).
2. Contact agent, telephone number, fax, and email address for application process and staff contact.
3. Business address and telephone number.

4. Contact agent, telephone number and email address for customer contact.
5. If principal place of business is outside Michigan, provide Michigan office address.
6. Business type (consultant, contractor, etc.).
7. Business area of expertise (engineering, HVAC, energy systems, etc.).
8. List of all employees with certifications described in Section B(3).
9. Whether the applicant, or any agent of the applicant, has committed within the last three years any violations of law or business ethics in connection with provision of energy or energy related products or services anywhere that resulted in a conviction or penalty for such behavior by a court or administrative agency. If so, explain the violations in an attachment to the application. Subsequent violations must be disclosed within 30 days.
10. Experience in energy engineering, energy efficiency, building systems, or building construction.
11. Outline of staffing, procedures, and subcontractors for the design and implementation phases in preparing an EWR plan.
12. Outline of staffing and procedures for responding to customer complaints and Commission requests for information.
13. A list of the specific categories of customer which the applicant intends to serve.
14. A separate legal affidavit, signed by a corporate officer with proper authority, which shall attest to the competence of the company's employees to provide EWR services.
15. A sample customer contract. Specific attention will be paid to the protections given the customer's confidential information and financial liability in the event the EWRSC fails to meet the EWR savings target, or the EWRSC goes out of business. This shall also include a proposed process for assessing responsibility for failure to meet targets when customers are aggregated.
16. Line of credit or bond in the amount of \$100,000.
17. Resumes or biographical summaries of individuals chiefly responsible for operations.
18. Overview of business plan including risk management strategy or policy.
19. Signed compliance commitment including the Terms and Conditions described in Section E.

Compliance Commitment

By signing this application and providing the affidavit letter required in item 14 of the application, the applicant and its representatives (1) certify that the information provided herein is accurate and complete and (2) agree to abide by the provisions of this agreement including the Terms and Conditions for a Michigan EWRSC.

Signature: _____ Title: _____

Date: _____

Name (printed): _____

Upon approval of this application by the Commission, the applicant will be approved as an Energy Waste Reduction Service Company under Public Act 295 of 2008, MCL

460.1001 et seq. Submit the completed and signed forms along with any necessary documentation to:

EWRSC Approval Process
Electric Reliability Division
Michigan Public Service Commission
PO Box 30221
Lansing, Michigan 48909

D. Application, Submission, and Approval Process

The application may be downloaded from the MPSC website. Responses should be attached and follow the format of the application requirements. The compliance commitment must be signed and dated as indicated.

The Commission may notify you regarding any clarifications or needed additional materials. If the initial application materials are complete, the Commission may request a meeting with principals of the applicant to cover and discuss any confidential or sensitive information.

Upon completion of a successful application process, the Commission will issue an *ex parte* order to add an approved applicant to a list of same on the MPSC website.

The Commission may revoke a previously issued approval of an EWRSC if the Commission determines that an EWRSC has: failed to abide by the Terms and Conditions or Code of Conduct; demonstrated a lack of competency in providing service to electric customers; or lost the ability to maintain the qualifications as presented in the approval process.

E. Terms and Conditions

1. **Contact information.** An EWRSC shall notify the Commission of any changes in the EWRSC's name, corporate structure, Michigan address, telephone number, and contact person or agent.
2. **Michigan office.** An EWRSC shall maintain a Michigan office. An EWRSC representative, telephone number, email address, and website must be made available during normal business hours to enable customers, utility providers, and the Commission to contact or make inquiry with the EWRSC.
3. **Certifications.** An EWRSC shall maintain the professional certifications presented in the application continuously through the period of all EWR plans administered by the EWRSC. Any lapse in certification shall be reported to the Commission within 30 days.
4. **Business practices and ethics disclosure.** An EWRSC shall follow all state and federal laws, as well as Commission policies and practices that may be established. Violations of law or business ethics by an EWRSC or its agents must be disclosed to the Commission within 30 days of any conviction or penalty determined or imposed by a court or administrative entity.
5. **Service disclosures.** An EWRSC shall disclose to all customers the responsibilities and potential penalties imposed on a customer by Act 295.

6. **Product/Service marketing and contract practices.** An EWRSC shall ensure fair and truthful representation of all products or services provided for the design and implementation of an EWR plan.
7. **Customer enrollment and services.** Enrollment of customers in the EWR plan shall strictly follow the procedures authorized by the Commission. Slamming (unauthorized switching) or cramming (unauthorized addition of products or services not requested by the customer) are prohibited. An EWRSC shall conform to all state and federal laws and regulations regarding the retail sale of products and services.
8. **Termination of service.** An EWRSC shall report to the utility provider and the Commission the termination of service by, or of, a customer within 10 business days.
9. **Act 295 and rules.** An EWRSC shall comply with applicable rules and procedures established by Act 295 and subsequent rules and orders promulgated by the Commission.
10. **Customer confidentiality.** Information obtained from a customer or a potential customer by an EWRSC or its agent is to be held in strict confidence and shall not be disclosed unless disclosure of specific information is necessary to service the customer, to verify the potential customer's credit information, or to verify customer eligibility and compliance to the utility provider and the Commission. In the event that a customer's or potential customer's information is disclosed to a third party, other than the utility or the Commission, for any purpose, the EWRSC shall ensure that the third party is informed of the duty to maintain the confidentiality of such information in the future. Any other use of such confidential information is prohibited absent the express approval of the customer or potential customer. Solicitation for such approval shall not be commingled with other offers, contracts, or approvals.
11. **Customer data requests.** A customer shall have the right to obtain information regarding the monthly progress of the EWRSC towards meeting the goals of the EWR plan.
12. **Reporting.** An EWRSC shall provide EWR data and progress to the Commission upon request. The books and records of an EWRSC shall be made available by the EWRSC so the Commission and its Staff may verify the accuracy of the data.
13. **Code of Conduct.** An EWRSC shall adhere to the Code of Conduct between EWRSCs and electric providers on file with the Commission.