

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to implement 2008 PA 295 through issuance of)	Case No. U-15800
a temporary order as required by MCL 460.1191.)	
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At the December 4, 2008 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

TEMPORARY ORDER

I.

BACKGROUND

On October 6, 2008, Governor Jennifer M. Granholm signed into law the "Clean, Renewable, and Efficient Energy Act", 2008 PA 295, MCL 460.1001 et seq. (the Act). Section 191 of the Act, MCL 460.1191, provides that within 60 days (or by December 5, 2008) the Commission shall issue a temporary order to implement the Act. The Legislature indicated that the temporary order shall include "[f]ormats of renewable energy plans for various categories of electric providers" and "[g]uidelines for requests for proposals under this act." MCL 460.1191(1)(a)-(b). The Legislature also indicated that the temporary order need not be limited to the content specified in MCL 460.1191(1)(a)-(b). Indeed, the Commission finds that the temporary order should broadly

address many of the renewable energy plan and energy optimization plan implementation issues raised by the passage of Act 295.

Subsequent to the passage of Act 295, the Commission Staff (Staff) conducted numerous meetings and engaged in discussions with the electric and gas providers subject to the Act and other interested persons. These meetings and discussions resulted in an agreement in principle on many of the aspects that will make up the formats applicable to the various categories of electric providers and the guidelines for requests for proposals. The Commission appreciates the contributions of its Staff, the electric providers, gas providers, and all interested persons that participated in this joint effort.

Despite the efforts of these parties, not all matters were resolved. Accordingly, the Commission will, in this temporary order, make the necessary determinations on any unresolved issues in order to implement Act 295 as required by MCL 460.1191. In so doing, the Commission does not intend to establish precedent or otherwise preclude any person from taking a different position on any issue pertaining to the future implementation of Act 295. As provided in MCL 460.1191(2), this temporary order will be effective for no more than one year. Thereafter, the Act will be administered in accordance with a set of administrative rules to be adopted in Case No. U-15900.¹

¹On October 7, 2008, the Commission filed a request for rulemaking (RFR) with the State Office of Administrative Hearings and Rules (SOAHR). On the same date, SOAHR approved the RFR, which has been assigned the SOAHR docket number 2008-042 LG. On October 21, 2008, the Commission issued a large number of orders opening implementation dockets for electric and natural gas providers affected by Act 295. In a number of those orders it was incorrectly indicated that the Commission had simultaneously issued an order in Case No. U-15900. The orders should have indicated that the Commission would be issuing such an order commencing the rulemaking proceeding in the near future.

II.

FORMATS OF RENEWABLE ENERGY PLANS

Subpart A of Part 2 of Act 295 concerns renewable energy plans. The term “renewable energy plan” is defined by MCL 460.1011(h) as “a plan approved under section 21 or 23 or found to comply with this act under section 25, with any amendments adopted under this act.” Sections 5, 21(1), 23(1), and 25(1) of Act 295 identify the following categories of electric providers that are subject to renewable energy plans:

- Investor-owned retail rate-regulated electric utilities,
- Retail rate-regulated rural electric cooperatives,
- Alternative electric suppliers,
- Municipally-owned electric utilities,
- Member-regulated rural electric cooperatives.

1. Renewable Energy Plan format applicable to Michigan investor-owned retail rate-regulated electric utilities.

The Michigan investor-owned retail rate-regulated electric utilities subject to Act 295 are Alpena Power Company (Alpena),² Consumers Energy Company (Consumers),³ The Detroit Edison Company (Detroit Edison),⁴ Edison Sault Electric Company (Edison Sault),⁵ Indiana Michigan Power Company (I&M),⁶ Northern States Power Company-Wisconsin (NSPC-Wisc),⁷

²Case No. U-15804.

³Case No. U-15805.

⁴Case No. U-15806.

⁵Case No. U-15807.

⁶Case No. U-15808.

⁷Case No. U-15809.

Upper Peninsula Power Company (UPPCo),⁸ Wisconsin Public Service Corporation (WPS Corp),⁹ and Wisconsin Electric Power Company (Wisconsin Electric).¹⁰ Each of these electric utilities shall file a renewable energy plan with the Commission within 90 days of the date of this order.

A complete description of the format for renewable energy plans applicable to investor-owned retail rate-regulated electric utilities is set forth in Attachment A to this order. The highlights of the requirements for each provider are set forth below. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (a) How the provider will meet the applicable renewable energy standards.
- (b) Whether the number of megawatt-hours (MWh) of electricity used in the calculation of the applicable renewable energy credit portfolio will be weather-normalized or based on the average number of MWh of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.
- (c) The expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the Commission.
- (d) For an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008, a description of the bidding process to be used by the provider under MCL 460.1033 for renewable energy contracts. The description shall include measures to be employed in the preparation of requests for proposals and the handling and evaluation of proposals received to ensure that any bidder that is an affiliate of the electric utility is not afforded a competitive advantage over any other bidder and that each bidder, including any bidder that is an affiliate of the provider, is treated in a fair and nondiscriminatory manner.
- (e) Establishment of a non-volumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates.

⁸Case No. U-15810.

⁹Case No. U-15811.

¹⁰Case No. U-15812.

The renewable energy plans filed by retail rate-regulated electric utilities shall be consistent with the format and other applicable provisions of Attachment A.

2. Renewable Energy Plan format applicable to Michigan retail rate-regulated rural electric cooperatives.

The Michigan retail rate-regulated rural electric cooperatives subject to Act 295 are Alger Delta Cooperative Electric Association,¹¹ Bayfield Electric Cooperative,¹² Cherryland Electric Cooperative,¹³ Cloverland Electric Cooperative,¹⁴ Great Lakes Energy Cooperative,¹⁵ Midwest Energy Cooperative,¹⁶ Ontonagon County Rural Electrification Association,¹⁷ Presque Isle Electric and Gas Co-op,¹⁸ Thumb Electric Cooperative,¹⁹ and Tri-County Electric Cooperative.²⁰ Each of these cooperatives shall file a renewable energy plan with the Commission within 90 days from the date of this order.

A complete description of the format for renewable energy plans applicable to Michigan retail rate-regulated rural electric cooperatives is set forth in Attachment A to this order. The highlights

¹¹Case No. U-15813.

¹²Case No. U-15814.

¹³Case No. U-15815.

¹⁴Case No. U-15816.

¹⁵Case No. U-15817.

¹⁶Case No. U-15818.

¹⁷Case No. U-15819.

¹⁸Case No. U-15820.

¹⁹Case No. U-15821.

²⁰Case No. U-15822.

of the requirements for each provider are set forth below. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (a) How the provider will meet the applicable renewable energy standards.
- (b) Whether the number of MWh of electricity used in the calculation of the applicable renewable energy credit portfolio will be weather-normalized or based on the average number of MWh of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.
- (c) The expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the Commission.
- (d) Establishment of a non-volumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates.

The renewable energy plans filed by retail rate-regulated rural electric cooperatives shall be consistent with the format and other applicable provisions of Attachment A.

3. Renewable Energy Plan format applicable to alternative electric suppliers.

The alternative electric suppliers (AESs) subject to Act 295 are Accent Energy Midwest LLC,²¹ American PowerNet Management, LP,²² BlueStar Energy Services, Inc.,²³ CMS ERM Michigan LLC,²⁴ CMS Energy Resource Management,²⁵ Commerce Energy, Inc.,²⁶ Constellation

²¹Case No. U-15823.

²²Case No. U-15824.

²³Case No. U-15825.

²⁴Case No. U-15826.

²⁵Case No. U-15827.

²⁶Case No. U-15828.

NewEnergy, Inc.,²⁷ Direct Energy Services, LLC,²⁸ Exelon Energy Company,²⁹ FirstEnergy Solutions Corp.,³⁰ Integrys Energy Services, Inc.,³¹ Liberty Power Delaware LLC,³² Liberty Power Holdings LLC,³³ Metro Energy, LLC,³⁴ MidAmerican Energy Company,³⁵ Nordic Marketing, L.L.C.,³⁶ Nordic Marketing of Michigan, L.L.C.,³⁷ Powerone Corporation,³⁸ Premier Energy Marketing, L.L.C.,³⁹ Quest Energy, L.L.C.,⁴⁰ Sempra Energy Solutions LLC,⁴¹ Spartan Renewable

²⁷Case No. U-15829.

²⁸Case No. U-15830.

²⁹Case No. U-15831.

³⁰Case No. U-15832.

³¹Case No. U-15833.

³²Case No. U-15834.

³³Case No. U-15835.

³⁴Case No. U-15836.

³⁵Case No. U-15837.

³⁶Case No. U-15838.

³⁷Case No. U-15839.

³⁸Case No. U-15840.

³⁹Case No. U-15841.

⁴⁰Case No. U-15842.

⁴¹Case No. U-15843.

Energy, Inc.,⁴² Direct Energy Business, LLC,⁴³ U.P. Power Marketing LLC,⁴⁴ Wolverine Power Marketing Cooperative, Inc.,⁴⁵ and The Royal Bank of Scotland plc.⁴⁶

A complete description of the format for renewable energy plans applicable to alternative electric suppliers is set forth in Attachment B to this order. The highlights of the requirements for each provider are set forth below. Each alternative electric supplier shall file a renewable energy plan with the Commission within 90 days of the date of this order. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (a) How the electric provider will meet the renewable energy standards.
- (b) Whether the number of MWh of electricity used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of MWh of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.

The renewable energy plans filed by alternative electric suppliers shall be consistent with the format and other applicable provisions of Attachment B.

4. Renewable Energy Plan format applicable to municipally-owned electric utilities.

The municipally-owned electric utilities (and their associated implementation dockets) subject to Act 295 are Village of Baraga (Case No. U-15848), City of Bay City (Case No. U-15849), City of Charlevoix (Case No. U-15850), Chelsea Department of Electric & Water (Case No. U-15851), Village of Clinton (Case No. U-15852), Coldwater Board of Public Utilities (Case No. U-15853),

⁴²Case No. U-15844.

⁴³Case No. U-15845.

⁴⁴Case No. U-15846.

⁴⁵Case No. U-15847.

⁴⁶ Case No. U-15902.

Croswell Municipal Light & Power Department (Case No. U-15854), City of Crystal Falls (Case No. U-15855), Daggett Electric Department (Case No. U-15856), Detroit Public Lighting Department (Case No. U-15857), City of Dowagiac (Case No. U-15858), City of Eaton Rapids (Case No. U-15859), City of Escanaba (Case No. U-15860), City of Gladstone (Case No. U-15861), Grand Haven Board of Light and Power (Case No. U-15862), City of Harbor Springs (Case No. U-15863), City of Hart Hydro (Case No. U-15864), Hillsdale Board of Public Utilities (Case No. U-15865), Holland Board of Public Works (Case No. U-15866), Village of L'Anse (Case No. U-15867), Lansing Board of Water & Light (Case No. U-15868), Lowell Light and Power (Case No. U-15869), Marquette Board of Light and Power (Case No. U-15870), Marshall Electric Department (Case No. U-15871), Negaunee Department of Public Works (Case No. U-15872), Newberry Water and Light Board (Case No. U-15873), Niles Utility Department (Case No. U-15874), City of Norway (Case No. U-15875), Village of Paw Paw (Case No. U-15876), City of Petoskey (Case No. U-15877), City of Portland (Case No. U-15878), City of Sebewaing (Case No. U-15879), City of South Haven (Case No. U-15880), City of St. Louis (Case No. U-15881), City of Stephenson (Case No. U-15882), City of Sturgis (Case No. U-15883), Traverse City Light & Power (Case No. U-15884), Union City Electric Department (Case No. U-15885), City of Wakefield (Case No. U-15886), Wyandotte Department of Municipal Service (Case No. U-15887), and Zeeland Board of Public Works (Case No. U-15888).

A complete description of the format for renewable energy plans applicable to municipally-owned electric utilities is set forth in Attachment C to this order. The highlights of the requirements for each provider are set forth below. Each municipally-owned electric utility shall file a renewable energy plan with the Commission within 120 days of the date of this order. Two or

more of these providers that each serve fewer than 15,000 customers may file jointly. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (1) How the electric provider will meet the renewable energy standards.
- (2) Whether the number of MWh of electricity used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.
- (3) The expected incremental cost of compliance with the renewable energy standards.
- (4) The manner in which the provider will allocate costs.

The renewable energy plans filed by municipally-owned electric utilities shall be consistent with the format and other applicable provisions of Attachment C.

5. Renewable Energy Plan format applicable to member-regulated electric cooperatives.

At this time, none of Michigan's rate-regulated rural electric cooperatives has elected to become member-regulated under 2008 PA 167, MCL 460.31 *et seq.* Nevertheless, because it may be beneficial for a rate-regulated rural electric cooperative to understand how its decision to switch to member-regulated status could impact its obligations under Act 295, the Commission has determined that it should provide the following information in the temporary order:

- (1) A member-regulated rural electric cooperative shall have 120 days following issuance of the temporary order to file a plan with the Commission.
- (2) The plan shall describe how the electric provider will meet the renewable energy standards.
- (3) The plan shall indicate whether the number of megawatt hours of electricity used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.

- (4) A member-regulated rural electric cooperative that has previously filed a plan under Act 295 as a rate-regulated rural electric cooperative shall have 30 days after the effective date of its election to become member-regulated to file an application seeking to amend its plan. However, its prior election with regard to weather-normalization versus a three year running average shall not be changed.

The renewable energy plans filed by a member-regulated cooperative shall be consistent with the format and other applicable provisions set forth in Attachment B to this order.

III.

GUIDELINES FOR REQUESTS FOR PROPOSALS

Section 21(2)(d) of Act 295 provides that electric providers having one million or more retail customers in this state on January 1, 2008 must describe a bidding process to be used by the provider for the purposes of Section 33, which pertains to how the provider “shall obtain the renewable energy credits that are necessary to meet the renewable energy credit standard in 2015 and thereafter.” Section 191(1)(b) specifies that the Commission shall implement Act 295 by adopting “guidelines” in the temporary order regarding requests for proposals.

The Commission recognizes that the term “guidelines” has a specific definition in the Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 *et seq.*, and that the APA specifies a method for the adoption of guidelines. However, the context in which the Legislature used the term “guidelines” in Act 295 indicates to the Commission that the Legislature did not intend for the Commission to promulgate guidelines for requests for proposals in accordance with the APA provisions found at MCL 24.224. Rather, the Legislature explicitly indicated that the

Commission was to formulate the initial guidelines for requests for proposals in the temporary order.⁴⁷

Therefore, the Commission adopts the guidelines set forth in Attachment D to this order to comply with the requirement set forth in Section 191(1)(b).

IV.

ENERGY OPTIMIZATION PLANS

Subpart B of Part 2 of Act 295 concerns energy optimization plans. Energy optimization plans must be filed by retail rate-regulated electric utilities, retail rate-regulated rural electric cooperatives, member-regulated rural electric cooperatives, municipally-owned electric utilities, and retail rate-regulated gas utilities.⁴⁸ Alternative electric suppliers are not required to have energy optimization plans.

A provider's energy optimization plan shall be filed, reviewed, and approved or rejected by the Commission according to the same procedures that apply to renewable energy plans. Rate-regulated providers of all types have up to 90 days after issuance of the temporary order to file their energy optimization plans. Member-regulated rural electric cooperatives and municipally-owned electric utilities have 120 days after issuance of the temporary order to file their energy

⁴⁷On October 29, 2008, the Staff posed this issue to the State Office of Administrative Hearings and Rules (SOAHR), which agreed with the analysis that the APA's guideline adoption procedures need not be followed in this instance.

⁴⁸The names and implementation dockets of all of the electric providers have been set forth in the previous section of this order and will not be repeated here. The retail rate-regulated natural gas providers (and their associated implementation dockets) are: Consumers Energy Company (Case No. U-15889), Michigan Consolidated Gas Company (Case No. U-15890), Michigan Gas Utilities Corporation (Case No. U-15891), Northern States Power Company – Wisconsin (Case No. U-15892), SEMCO Energy, Inc. (Case No. U-15893), and Wisconsin Public Service Corporation (Case No. U-15894).

optimization plans. A provider may combine its renewable energy plan with its energy optimization plan.

The overall goal of an energy optimization plan is to reduce the future costs of provider service to customers. Among other things, energy optimization plans must be designed to delay the need for constructing new electric generation facilities, which will protect customers from incurring the costs of such construction. Energy optimization plans shall do all of the following:

- (a) Propose a set of energy optimization programs that include offerings for each customer class, including low income residential. The commission shall allow providers flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory.
- (b) Specify necessary funding levels.
- (c) Describe how energy optimization program costs will be recovered as provided in section 89(2).
- (d) Ensure, to the extent feasible, that charges collected from a particular customer rate class are spent on energy optimization programs for that rate class.
- (e) Demonstrate that the proposed energy optimization programs and funding are sufficient to ensure the achievement of applicable energy optimization standards.
- (f) Specify whether the number of megawatt hours of electricity or decatherms or MCFs of natural gas used in the calculation of incremental energy savings under section 77 will be weather-normalized or based on the average number of megawatt hours of electricity or decatherms or MCFs of natural gas sold by the provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.
- (g) Demonstrate that the provider's energy optimization programs, excluding program offerings to low income residential customers, will collectively be cost-effective.
- (h) Provide for the practical and effective administration of the proposed energy optimization programs. The commission shall allow providers flexibility in designing their energy optimization programs and administrative approach.

A provider's energy optimization programs or any part thereof, may be administered, at the provider's option, by the provider, alone or jointly with other providers, by a state agency, or by an appropriate experienced nonprofit organization selected after a competitive bid process.

- (i) Include a process for obtaining an independent expert evaluation of the actual energy optimization programs to verify the incremental energy savings from each energy optimization program for purposes of section 77. All such evaluations shall be subject to public review and commission oversight.

MCL 460.1071(3).

The energy optimization plans filed by providers shall be consistent with the format and applicable provisions of Attachment E to this order.

V.

GROUPING OF PROVIDERS

Act 295 requires that the Commission adhere to a rigorous schedule for implementation of its provisions. To meet this requirement and facilitate the process, the Commission has determined that it will be necessary to organize the providers whose renewable energy plans and/or energy optimization plans are governed by the Act into the following four groups:

Group A -- All investor-owned electric retail rate-regulated electric utilities and investor-owned retail rate-regulated natural gas utilities.

Group B -- All rate-regulated rural electric cooperatives.

Group C -- All alternative electric suppliers and member- regulated rural electric cooperatives, if any.

Group D -- All municipally-owned electric utilities.

VI.

TECHNICAL CONFERENCES

To facilitate implementation of Act 295, the Staff will be holding two technical conferences. Technical conference No. 1 will be held January 5, 2009 in the Commission's Lansing offices at 6545 Mercantile Way, Lansing, MI 48911. Technical conference No. 1 should be attended by members of Group A and Group C and any persons with an interest in the plans to be filed by providers contained in Group A and Group C. Technical conference No. 1 is scheduled to begin at 9:00 a.m. and will last as long as necessary to address all matters that are pertinent to the implementation of Act 295.

Technical conference No. 2 will be held January 6, 2009 in the Commission's Lansing offices at 6545 Mercantile Way, Lansing, MI 48911. Technical conference No. 2 should be attended by members of Group B and Group D and any persons with an interest in the plans to be filed by providers contained in Group B and Group D. Technical conference No. 2 is scheduled to begin at 9:00 a.m. and will last as long as necessary to address all matters that are pertinent to the implementation of Act 295.

Although participation in one or both of the technical conferences is not mandatory, it is strongly advised. If a provider or interested person is unable to attend the assigned technical conference as scheduled, that provider or person should feel free to attend the other technical conference.

VII.

SUMMARY OF INSTRUCTIONS FOR INITIAL PLAN FILINGS

The filed renewable energy plans for investor-owned retail rate-regulated electric utilities and retail rate-regulated rural electric cooperatives shall include the filing requirements and renewable

energy plan table set forth in Attachment A. The filed plan and implementation for Detroit Edison and Consumers shall be consistent with the guidelines for competitive requirements for proposal for renewable and advanced cleaner energy set forth in Attachment D. Attachment D also contains a table providing clarification regarding the types of contracts to be submitted for review and approval under Act 295, Sections 33(3) and 37. Under Section 37, all providers whose rates are regulated by the Commission must file renewable energy contracts or contracts to purchase RECs with or without the associated energy with the Commission for review and approval. The Commission intends to review and approve these submitted contracts on an expedited basis with a target of issuing the order within 30 calendar days from the date of filing of each contract.⁴⁹ The filed renewable energy plans for AES providers and member-regulated electric cooperatives shall include the filing requirements set forth in Attachment B. The filed renewable energy plans for municipally-owned electric providers shall include the filing requirements and table set forth in Attachment C. The energy optimization plans and implementation shall be consistent with the guidelines and table set forth in Attachment E. Included in Attachment E is a draft application for a Self-Directed Energy Optimization Plan. An updated draft will be available for use by January 5, 2009.

The Commission has reviewed the provisions contained in Attachments A through E and finds them to be reasonable measures to comply with the statutory requirements and provide a basis for administrative review. These attachments are adopted as part of this temporary order.

⁴⁹ Applications seeking approval of contracts shall be filed by the provider in the Commission docket assigned to the provider for the filing of its renewable energy plan and/or energy optimization plan.

VIII.

STAGGERED FILING DEADLINES

The Commission intends to review the filed plans in an expeditious manner and allow reasonable flexibility regarding the plan content for individual providers. Some structure is necessary for the Commission and its Staff to cope with the high volume of case filings that will be experienced during the implementation phase of Act 295. To ease the administrative burden of processing over 90 similar proceedings within a very limited time span, filing deadlines will be assigned that will distribute the workload over a two week period. Attachment F contains a list of all rate regulated electric providers and all rate regulated natural gas providers subject to Act 295 and each of those providers' filing deadlines. Attachment G contains a list of all alternative electric suppliers subject to Act 295 and each of those providers' filing deadlines. For municipally-owned electric utilities, many of whom have until December 14, 2008 to elect to file jointly, the Commission will issue a supplemental order after December 14, 2008 assigning filing deadlines for each of them.

IX.

CONTESTED CASE PROCESSING PROCEDURES

The providers in Groups A and B consist of retail rate-regulated electric providers, retail rate-regulated gas providers, and all retail rate-regulated rural electric cooperatives. These providers are required to file their renewable energy plans and energy optimization plans within 90 days of the issuance of this temporary order. Members of Groups A and B will have their renewable energy plans and/or energy optimization plans reviewed in contested case proceedings to be conducted within a 90-day time frame, which requires the Commission and the administrative law judges (ALJs) from SOAHR to adhere to highly compressed evidentiary hearing schedules. The 90-day timeframe required for processing applications is so tight that litigants cannot reasonably

expect the full panoply of activities ordinarily associated with the conduct of contested case proceedings at the Commission. With these strictures in mind, the Commission adopts the following model schedule to be followed for every renewable energy plan and energy optimization plan proceeding submitted by the Group A and Group B providers:

1. Thirty days before the filing deadline assigned by this order, a provider assigned to either Group A or Group B shall file with the Commission's Executive Secretary a notice of intent to file an application in its assigned implementation docket. The notice of intent shall be accompanied by a proposed notice of hearing that will be reviewed and approved by the Commission's Executive Secretary, and returned to the provider in time for the provider to arrange publication and service of the notice of hearing in accordance with the Executive Secretary's instructions.
2. On the date established for filing the provider's application for approval of its renewable energy plan and/or its energy optimization plan, the provider shall file in its assigned implementation docket an application for approval of its renewable energy plan and/or its energy optimization plan. The filing shall also contain all prepared direct testimony, exhibits, and supporting documentations (such as work papers). The provider shall serve copies of its filing on all parties to its most recently completed or pending general rate case and any persons who have previously expressed a desire to participate in the proceeding.
3. Seven days after the filing of an application for approval of a renewable energy plan and/or an energy optimization plan, petitions for intervention shall be filed.
4. Ten days after the filing, the provider, the intervenors, and other interested persons shall attend the scheduled prehearing conference. Proof of service shall be filed at this time. Affidavits of publication also shall be submitted at the prehearing conference.
5. Twenty-four days after the filing of the application, the Staff and intervenors shall file their prepared direct testimony and exhibits.
6. Thirty-eight days after the filing of the application, parties shall file rebuttal testimony and exhibits, if any.
7. Cross-examination of all parties shall commence on the 45th day after filing of the application and shall be concluded no later than by the 48th day after the filing of the application.

8. Initial briefs from all parties shall be due on the 62nd day after the filing of the application.
9. Reply briefs from all parties shall be due on the 69th day after the filing of the application.
10. There will be no proposal for decision; the Commission will read the record.
11. The Commission will issue an order in the docket on or before the 90th day following the filing of the application.

The ALJs are free to make minor adjustments to the schedules as needed, provided that the Commission is able to issue final orders on or before the 90th day after filing of the application.

X.

COMMENT PROCEEDINGS

Providers assigned to Groups C and D include alternative electric suppliers (which are required to file renewable energy plans but not energy optimization plans), municipally-owned electric utilities, and member-regulated rural electric cooperatives (none at this time). Alternative electric suppliers have 90 days after issuance of the temporary order to file their renewable energy plans. Municipally-owned electric utilities and member-regulated rural electric cooperatives have 120 days after issuance of the temporary order to file their renewable energy and energy optimization plans. These providers are not required to have their renewable energy plans and/or energy optimization plans reviewed in contested case proceedings. Their renewable energy plans and/or energy optimization plans are subject to comment proceedings, which will be processed according to the following schedules.

Alternative electric suppliers (and member-regulated cooperatives, if any):

1. Thirty days before the filing deadline assigned by this order, an alternative electric supplier shall file with the Commission's Executive Secretary a notice of intent to file an application in its assigned implementation docket. The notice of intent shall be accompanied by a proposed notice of opportunity for

comments that will be reviewed and approved by the Commission's Executive Secretary, and returned to the provider in time for the provider to arrange publication and service of the notice of hearing in accordance with the Executive Secretary's instructions.

2. On the date established for filing an alternative electric supplier's application for approval of its renewable energy plan, the alternative electric supplier shall file in its assigned implementation docket an application for approval of its renewable energy plan. On or before the filing deadline, the alternative electric supplier shall provide a description of its filing to all existing customers by mail or by placing a description of its filing on its website and by sending a written notice to all customers notifying them where and how to review the description. The alternative electric supplier shall also provide such information with marketing materials provided to all prospective customers. Finally, on or before the filing deadline, the alternative electric supplier shall inform all existing and prospective customers of the deadline for submitting comments and how they may submit comments to the Commission.
3. The deadline for filing comments on an alternative electric supplier's renewable energy plan shall be 30 days after the filing of the plan.
4. In the event that the Commission intends to suggest changes to an alternative electric supplier's renewable energy plan, the Commission will communicate those changes to the alternative electric supplier within 60 days of the filing of the application.
5. An alternative electric supplier that receives suggested changes from the Commission shall submit its response to the Commission no later than 75 days after the filing of its application.
6. The Commission will issue an order in the docket on or before the 90th day following the filing of the application.

Municipally-owned electric utilities:

1. Thirty days before the filing deadline assigned by this order, a municipally-owned electric utility shall file with the Commission's Executive Secretary a notice of intent to file an application in its assigned implementation docket. Municipally-owned electric utilities having fewer than 15,000 customers may file jointly. The notice of intent shall be accompanied by a proposed notice of opportunity for comments that will be reviewed and approved by the Commission's Executive Secretary, and returned to the provider in time for

the provider to arrange publication and service of the notice of hearing in accordance with the Executive Secretary's instructions.⁵⁰

2. On the date established for the filing of a municipally-owned electric utility's application for approval of its renewable energy plan and/or its energy optimization plan, the municipally-owned electric utility shall file in its assigned implementation docket an application for approval of its renewable energy plan and/or its energy optimization plan. On or before the filing deadline, the municipally-owned electric utility shall provide a description of its filing to all existing customers by mail or by placing a description of its filing on its website. If the municipally-owned electric utility has and/or will be soliciting public comments, it need not inform its customers about how to file comments with the Commission. If the municipally-owned electric utility has not and will not be soliciting public comments on its own, on or before the filing deadline, the municipally-owned electric utility shall inform all existing and prospective customers of the deadline for submitting comments and how they may submit comments to the Commission.
3. The deadline for filing comments with the Commission about a municipally-owned electric utility's renewable energy plan shall be 60 days after the filing of the plan.
4. The Commission will issue an order in the docket on or before the 90th day following the filing of the application.

XI.

ADDITIONAL INFORMATION

Renewable Energy Plan Issues and Clarifications

1. On/Off peak periods.

Section 39(2)(b) provides for a Michigan incentive renewable energy credit (REC) equal to "1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system, other than wind, at peak demand time as determined by the commission." The

⁵⁰In the event that the governing body for the municipally-owned electric utility has already provided an opportunity for public comment or will do so by the filing deadline established by this order, in lieu of submitting a proposed notice of opportunity for comments with its 30-day notice of intent to file, the municipally-owned electric utility shall notify the Executive Secretary that it will be providing copies of the public comments with its plan filing.

Commission, in this temporary order, defines peak demand time as: the period of time between 0600 hours Eastern Standard Time (EST) through 2200 hours EST, Monday through Friday excepting New Year's, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day or if the holiday occurs on a Sunday, the Monday immediately following the holiday. This definition is consistent with the Midwest Independent Transmission System Operator, Inc. (MISO) Third Revised Sheet No. 110.

2. Renewable energy credits (RECs) purchased from the marketplace.

Section 33 applies to providers that had more than 1 million retail customers in this state on January 1, 2008, (Detroit Edison and Consumers). Section 33(1)(a) allows up to, but no more than 50% of RECs needed to meet the standard to be acquired from utility developed and owned renewable energy systems, or systems transferred to the utility after the commencement of commercial operation. Section 33(1)(b) requires at least 50% of credits to be acquired from third-party contracts with unaffiliated renewable energy developers. Such contracts are to be executed after a competitive bidding process pursuant to the Commission-issued guidelines.

Section 33(3) and Section 37 require all contracts entered into for the purposes of satisfying Section 33(1)(a) and (b) to be submitted to the Commission for review and approval. The primary consideration of the Section 33(3) submission is to ensure that the large electric providers (who serve more than 1 million electric customers) are providing non-affiliated developers with contracts providing for at least 50% of renewable energy credits needed to meet the standard; to ensure that engineering, procurement, and construction contracts are competitively bid; and to ensure that contracts providing for transfer of ownership are competitively bid regardless of whether the developer is affiliated with the provider. Contracts approved by the Commission shall be considered consistent with the electric provider's renewable energy plan. In addition,

Section 37, which applies to all regulated providers, requires Commission review of contract cost, price, term, and risks that will lead to a determination of whether the contract provides reasonable and prudent terms and conditions. Contract submission and approval for regulated electric providers may take place outside of the 90-day Commission review period for a biennial plan proceeding. Contract submission shall be made under the docket number for the provider's renewable energy plan.

RECs purchased from an exchange or from an auction may be presumed to have reasonable and prudent terms without the administrative cost and complexity of a specific submittal, and subsequent Commission review. A competitive bidding process (conducted by the provider) is not required to obtain marketplace RECs. The statute does not contemplate that spot purchases of RECs from an exchange or auction are included in the Section 33(3) or Section 37 contract submissions for Commission review. Consistent with this view, the Contract Review and Approval Matrix, attached as a table at the end of Attachment D, specifically excludes marketplace purchases of RECs as being subject to submission, review, and approval.

Section 33(1)(a) limits the extent to which Detroit Edison or Consumers may choose to rely on their own renewable energy systems to meet future renewable energy credit standards. The Legislature has limited Detroit Edison and Consumers to obtaining "no more than 50%" of the RECs necessary to meet the renewable energy credit standard in 2015 and thereafter from either or both "[r]enewable energy systems that were developed by and are owned by the electric provider" or "[r]enewable energy systems that were developed by 1 or more third parties pursuant to a contract with the electric provider under which the ownership of the renewable energy system may be transferred to the electric provider, but only after the renewable energy system begins commercial operation." Moreover, the Legislature clearly provided in Section 33(1)(b) that "at

least 50%” of the required RECs shall be acquired via contract with third-party developers. Spot or marketplace purchases are not acquired through contract and, accordingly, purchases of such RECs can be utilized only to meet the requirements of Section 33(1)(a).

3. Expected life-cycle cost of electricity for new conventional coal-fired facility.

Section 21(4)(b) provides a specific economic criterion for evaluating the reasonableness and prudence of a provider’s renewable energy plan. The lifecycle cost of renewable energy under the plan, less the lifecycle savings of the provider’s energy optimization plan, must not exceed “the expected lifecycle cost of electricity generated by a new conventional coal-fired facility.” The Commission notes that the statute refers to “a” new conventional facility. The Commission interprets this criterion as being a single calculation, as determined by the Commission, and to be used as an economic guidepost to evaluate all providers’ plans despite whether a particular provider has the need or expectation to build a new generation facility. The Commission defines a conventional facility to be an ultra-supercritical pulverized coal plant, with a life of 40 years. The Commission also interprets this calculation, for administrative efficiency, to consist of a busbar rate in \$/MWh. Because the statute mandates a lifecycle calculation, the levelization period shall correspond to the 40 year lifecycle. The Staff shall include an expected lifecycle cost of greenhouse gas emissions under the assumption of a carbon tax or cap and trade requirement. The Commission directs the Staff to work with the providers to develop the required guidepost rate, and to submit the number to the Commission by January 30, 2009. Interested persons may raise additional concerns not specifically addressed by the Commission in the temporary order.

4. Calculation of the incremental cost of compliance via the transfer price to be recovered through the PSCR clause.

A provider whose rates are regulated by the Commission shall include in its renewable energy plan an estimate over the 20-year plan-period of the revenues derived from the sale of energy and capacity generated by renewable energy systems owned by the provider. Energy and capacity produced by these systems may be sold into the wholesale market, or may be sold directly to the provider's customers.

Section 47 requires the Commission to annually set the price per megawatt hour to be transferred to retail customers through the regulated provider's power supply cost recovery (PSCR) clause. Section 49 requires the transfer price to be established in the context of an annual renewable cost reconciliation proceeding. Because the 2009 renewable energy plan proceeding will precede the first annual renewable energy reconciliation, the plan filings will need to estimate the transfer prices over the 20-year plan period. All renewable engineering, procurement, and construction contracts, or contracts for renewable energy systems that have been developed by third parties for transfer of ownership to an electric provider, that have been reviewed and approved by the Commission in a particular year will have the transfer price established as a floor for the lifecycle of the project. Provider-owned projects will have transfer prices set in vintages. Doing so ensures that the economic viability of projects that have been committed to will not be jeopardized by transfer prices that change in future years.

In a renewable energy plan, PSCR transfer revenues are subtracted from the total cost of compliance, as determined by Section 47(2)(a). The transfer price is a primary determinant of the incremental cost of compliance. The PSCR transfer price:

- (a) is unique to each provider;
- (b) reflects the value of long-term capacity and energy;

- (c) is not the current MISO market price of energy, but may use historical MISO prices as a starting point for a 20-year projection of the value of renewable energy and capacity;
- (d) need not be tied to the avoided price of a new conventional coal-fired facility; and
- (e) other factors determined relevant by the Commission.

The transfer price may be separately calculated for differing renewable technologies to reflect availability and the value of capacity; e.g., the capacity value of a landfill gas facility may differ from the capacity value of a wind farm.

The PSCR transfer price may be adjusted by an hourly distribution curve to yield an hourly price per megawatt hour for the 8,760 hours per year.

5. Recovery of start-up costs incurred prior to plan approval.

With respect to start-up costs incurred before Commission approval of a regulated provider's plan, the Commission finds guidance from Section 47(1) which states: "the commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the provider." In determining the rate impacts required to recover the incremental cost of compliance, the Commission intends to consider for cost recovery renewable energy plan start-up costs incurred by a provider prior to the date of approval of the provider's plan.

6. Gasification facilities.

Section 3 defines "advanced cleaner energy system" as including a gasification facility. The question is whether electricity produced by gasification facilities is restricted to advanced cleaner

energy credits or whether it may, in the alternative, qualify for renewable energy credits. The Commission answers this question in the affirmative. If a gasification facility is fueled by a renewable energy resource as defined by Section 11(i), then it is a renewable energy system and the electricity it generates qualifies for renewable energy credits.

7. Qualifying for Michigan Incentive Renewable Energy Credits.

A. Michigan Equipment

For renewable energy systems constructed using equipment made in the state of Michigan the following method shall apply for determining the amount of incentive RECs to be granted by Section 39(2)(d):

1. Michigan made equipment shall be calculated by dividing the U.S. dollar cost of all equipment and materials made (defined as manufactured or assembled) in the state of Michigan by the total U.S. dollar cost of all equipment and materials used to construct the renewable energy system.
2. The annual number of incentive RECs granted to the owner of the renewable energy system shall be determined by multiplying the percentage calculated in 1 above by the result of 1/10 multiplied by the number of MWh produced by the renewable energy system in that year.
3. 100% credit of incentive RECs shall be granted to the owner of the renewable energy system if the percentage calculated in 1 above equals or exceeds 50% for renewable energy systems with a commercial operation date (COD) of 10/6/08 or after.

B. Michigan Workforce

For renewable energy systems constructed using a workforce composed of residents of the state of Michigan, the following method shall apply for determining the amount of incentive RECs to be granted by Section 39(2)(e):

1. Michigan labor shall be calculated by dividing the number of labor hours attributed to the construction (defined as in-field labor) of the renewable energy system performed by residents of the state of Michigan by the total labor hours attributed to the construction of the renewable energy system.

2. The annual number of incentive RECs granted to the owner of the renewable energy system shall be determined by multiplying the percentage calculated in 1 above by the result of 1/10 multiplied by the number of MWhs produced by the renewable energy system in that year.
3. 100% credit of incentive RECs shall be granted to the owner of the renewable energy system if the percentage calculated in paragraph 1 above equals or exceeds the following:
 - a. 60% for renewable energy systems with a COD from 10/6/08 through 12/31/2012;
 - b. 65% for renewable energy systems with a COD from 1/1/2013 through 12/31/2014; or
 - c. 70% for renewable energy systems with a COD of 1/1/2015 or after.

C. Advanced Electric Storage Technologies or Hydro Electric Pumped Storage Facilities.

Pursuant to Section 39(2)(c), the Michigan Incentive REC is determined to be the renewable and/or advanced cleaner energy that is generated during the off-peak period and used to charge the Advanced Electric Storage Technology, or fill the Pumped Storage Facility on an hourly basis. The determination of this value for each off-peak hour shall be the lesser of (1) the sum of the net renewable and advanced cleaner energy that is generated during each off-peak hour, or (2) the energy used to charge the Advanced Electric Storage Technology or fill the Pumped Storage Facility during each off-peak hour.

8. Definition of Retail Sales for IOU, Cooperative and Municipal Providers.

Retail sales as used in Section 27(4) and Section 77(1) are defined as total utility electric sales less wholesale sales and electric choice sales. The source of these sales can be determined as total sales to ultimate customers as reported:

- a. For each investor owned utility, line number 10 (summation of line numbers 2, 4, 5, 6, & 7) as reported on page 301 of MPSC Form P-521.

- b. For each electric cooperative,
 - i. For RUS borrowers - line number 11 (TOTAL KWH Sold, less Line number 8 Sales for Resale-RUS Borrowers, and less Line number 9 Sales for Resale-Other) from United States Department of Agriculture-Rural Utilities Service Financial and Statistical Report, Part O. Power Requirements Data Base -- Annual Summary, or
 - ii. For Non-RUS borrowers - line number 11 (TOTAL KWH Sold, less Line number 8 Sales for Resale-RUS Borrowers, and less Line number 9 Sales for Resale-Other) from the National Rural Utilities Cooperative Finance Corporation Financial and Statistical Report, Part R. Power Requirements Data Base--Annual Summary.
- c. For each municipal, form EIA-861.

Energy Optimization Plan Issues and Clarifications

1. Michigan Energy Savings Database.

All of the providers required to file energy optimization (EO) plans have voluntarily decided to collaborate on the development and maintenance of a single statewide database that will be used in developing programs and calculating the savings of numerous energy efficiency measures being installed as a result of the EO programs. The database will be created using established and credible industry savings values and will be updated periodically with actual data from Michigan installations. Over time, this will result in a database that uniquely reflects energy savings from the installation of energy efficiency measures in Michigan. The database will reflect both actual and weather-normalized values.

The Commission commends the providers for taking this logical and cost-effective step. The Commission has an interest in making summary data from the database readily available for public review and edification. The Commission understands that this can be accomplished in a manner that protects the commercial viability of the database contractor and the reasonable prerogatives of the providers. The Commission directs the providers to work with the Staff to establish a link from the Commission website to a site where interested parties can review the posted savings

values within 30 days after the database becomes operational. All updates to the database values shall be reflected on the publicly available website.

2. Coordination with the Michigan Saves Program.

The State of Michigan is fortunate to have received grants totaling \$541,100 for the establishment of a program called Michigan Saves. The Michigan Saves program will provide an option for financing energy efficiency improvements with no up front capital payment and no additional debt attributable to a participating customer. The customer at a location where products financed under *Michigan Saves* are installed will pay a tariffed charge on their utility bill, as long as there are savings, until all measure costs, including financing costs, are paid.

The providers required to conduct energy optimization programs under Act 295 are the same utilities who have been sought out to enable the successful deployment of the *Michigan Saves* concept. Because financing of energy efficiency measures will be critical to the success of the energy optimization plans and the achievement of the goals of Act 295, it is important that providers' energy optimization programs be integrated with the *Michigan Saves* efforts.

In its August 26, 2008 order in Case No. U-15633, the Commission invited regulated electric and natural gas utilities and others to participate in a working group to develop the *Michigan Saves* program and initiate related pilots. To date, nearly all of the providers required to file energy optimization plans under Act 295 have filed notices of intent to participate in the *Michigan Saves* working group.⁵¹ Several other interested parties have also filed notices of intent to participate.

The Commission understands that several Michigan cities are actively interested in the *Michigan Saves* concept and any lack of a formal filing before this Commission by these cities is due to their unfamiliarity with Commission processes. The Commission renews its invitation to

⁵¹See, http://www.michigan.gov/mpsc/0,1607,7-159-16377_47107_51666---,00.html for the *Michigan Saves* project web page.

all parties, especially municipals subject to the provisions of Act 295, to file notices of intent to participate in Case No. U-15633 and participate in subsequent meetings to facilitate rapid development and deployment of the *Michigan Saves* program in conjunction with both the energy optimization and renewable energy plans required under 2008 PA 295.⁵² The U-15633 filing deadline is extended from September 19, 2008 to January 5, 2009.

The Commission understands that meetings are being scheduled in mid-December 2008 to proceed with integrating *Michigan Saves* with the energy optimization and renewable energy plans required under Act 295. The Commission commends the Staff and all parties for their diligence in advancing toward this important goal. The Commission is confident that this assiduousness will result in the initiation of at least one *Michigan Saves* pilot program by February 20, 2009.

3. Treatment of non-residential natural gas customers.

Two issues have arisen regarding whether certain non-residential natural gas customers should be exempt from energy optimization surcharges. The Commission is persuaded that it should weigh in on these questions in the temporary order.

First, some interested persons have pointed out that Section 89(2) limits the ability of the Commission to provide for cost recovery for energy optimization plans undertaken by natural gas providers to “volumetric charges” to be collected from the utility’s natural gas customers. For this reason, they contend, natural gas transportation customers were meant to be excluded from paying for the costs of energy optimization plans and that their volumes should not be considered

⁵² In keeping with Governor Jennifer M. Granholm’s Executive Directives 2007-3, part VI, and 2007-19, part VI, whenever possible, MPSC Workgroup Meetings are available via toll-free teleconference and web conference, so that any interested party with a telephone line and internet connection can easily participate.

in determining whether a provider's energy optimization plan will meet the required energy optimization targets.

Act 295 does not explicitly define the term "natural gas customer." This leaves the Commission to search the remainder of the Act to infer the Legislature's intent. In Section 71(2), the Legislature indicated that the "overall goal of an energy optimization plan shall be to reduce the future costs of provider service to customers." There is no indication in this language that the Legislature intended to distinguish between bundled sales customers, choice customers, and transportation customers. Also, in Section 89(1) and (2), the Legislature did not explicitly distinguish between bundled sales customers, choice customers, and transportation customers. Instead, the Legislature explicitly stated that "costs shall be recovered from *all* natural gas customers...by volumetric charges."

Although transportation customers do not rely on natural gas utilities for their source of supply, many transportation customers do rely on the facilities of natural gas utilities for the delivery of gas to its ultimate destination. In the absence of an explicit legislative intent in Act 295, the Commission finds that natural gas transportation customers served by any natural gas provider whose rates are regulated by the Commission will be subject to cost recovery charges for the energy optimization plan programs in accordance with Act 295 and will have their throughput volumes included in the calculations of the natural gas distribution company's targets, which means that they will be eligible to receive services under approved energy optimization plan programs.

Second, interested persons have suggested that Section 93(1), which states that "[a]n eligible primary or secondary electric customer is exempt from charges the customer would otherwise incur under section 89 or 91 if the customer files with its electric provider and implements a

self-directed energy optimization plan as provided in this section” was intended by the Legislature to be a loophole by which an electric sales customer who elects to do a self-directed electric program can avoid not only the electric surcharge, but also any gas surcharges assessed to gas sales customers.

The Commission is not convinced that the Legislature would have (in a section of the law dealing explicitly with *electric* customers and charges levied by *electric* providers) buried a loophole purported to apply to natural gas customers without having expressly said so. The goal of statutory construction is to ascertain and give effect to the intent of the Legislature. *Livingston Co Bd of Social Services v Dep't of Social Services*, 208 Mich App 402; 529 NW2d 308 (1995). When the statutory language is clear, the statute should be enforced as written. *Auto-Owners v Stenberg Bros*, 227 Mich App 45; 575 NW2d 79 (1997). Every word of a statute should be read in such a way as to be given meaning, avoiding any construction that would render any part of the statute surplusage or nugatory. *In re MCI Telecommunications Complaint*, 460 Mich 382; 596 NW2d 164 (1999). The Commission concludes that Section 93(1) cannot be read to apply to natural gas customers and that it clearly applies only to electric customers.

4. Cost Recovery for Energy Optimization Plans.

Section 89(1) provides, in part that, “The commission shall allow a provider whose rates are regulated by the commission to recover the actual costs of implementing its approved energy optimization plan.” Section 73(2) requires the Commission to “approve a proposed energy optimization plan unless the commission determines that the energy optimization plan meets the utility system resource cost test and is reasonable and prudent.” The statute also provides a very aggressive timetable for providers to develop, implement, and demonstrate savings from their energy optimization plans. The Commission is aware of the dedicated and good faith efforts of the

providers, in conjunction with the Staff and other interested stakeholders, to meet the statutory deadlines by working expeditiously to initiate necessary plan elements. The Commission finds that it is reasonable that the providers began energy optimization plan and program development as soon as PA 295 was enacted. The Commission authorizes deferred accounting of actual costs incurred by a provider in implementing its energy optimization plan under Act 295, Subpart B.

5. Timing for Energy Optimization Plan Surcharge.

Section 21(7) specifies that, “An electric provider shall not begin recovery of the incremental costs of compliance within its rates until the commission has approved its proposed plan.” This provision relates to renewable energy plans. Similarly, in keeping with the general proviso in Section 73(1) that energy optimization plans shall be subject to the same procedures used for renewable energy plans, the Commission finds that recovery of costs associated with energy optimization plans shall not commence until a provider’s energy optimization plan is approved. The energy optimization plan costs may be recovered as soon as practicable after energy optimization plan approval. Beginning the surcharge as soon as possible will allow the costs to be spread over more months, which will lower the monthly surcharge amount.

6. Notification by Providers Opting to Use the Independent Energy Optimization Program Administrator.

In order to allow adequate time for the bid solicitation process for the Independent Energy Optimization Program Administrator, providers who wish to meet their statutory requirements under 2008 PA 295 by utilizing this option shall notify the Commission of their intent to do so by December 19, 2008. The Commission will require an initial two year contract commitment, with an option to renew.

7. Self-Directed Energy Optimization Plans.

A. Phase-in of Eligible Customers

Section 93 describes a phased-in option for customers to be exempt from otherwise applicable electric charges to support provider energy optimization plans in exchange for implementing their own “self-directed” energy optimization plan.

Initially, only the largest customers are eligible to utilize the self-direct option. In 2009 and 2010, an eligible primary or secondary customer must have had an annual peak demand in the preceding year of at least 2 megawatts at each site to be covered by the plan or 10 megawatts if aggregating multiple sites owned by the same customer within the service territory of the applicable provider.

The second phase of the self-direct roll-out in 2011, 2012 and 2013 expands the option to include mid-sized customers whose annual peak demand in the preceding year was at least 1 megawatt at each site to be covered by the self-directed plan or 5 megawatts if aggregating all sites owned by the same customer within the service territory of the applicable provider. The Commission interprets the insertion of “or customers” in Section 93(2)(b) to allow unrelated customers within the provider’s service territory, such as those in a strip mall or industrial park, to aggregate for the purposes of implementing a self-directed plan. Non-contiguous customers such as a group of schools or churches in a provider’s service territory may also choose to aggregate for purposes of a self-directed plan.

The third and final phase of the self-direct roll-out, in 2014 and thereafter, allows all non-residential primary or secondary electric customers to be aggregated if their collective annual peak demand in the preceding year was at least 1 megawatt for all sites to be covered by the self-directed plan.

B. Schedule for Phase 1-Eligible Customers.

- (1) By December 15, 2008, Consumers and DTE Energy will notify all of their customers who are eligible to implement a Phase 1 self-directed energy optimization plan that this option is available to them as described in this order. In order to assist customers to make an informed decision about whether it is worth it to them to operate a self-directed energy optimization plan, Consumers and DTE Energy will notify customers of their best estimates of the amounts of the surcharges that will be charged to them if they elect to remain part of the provider's energy optimization plan. The Commission expects the other providers subject to the requirements of Act 295 to initiate similar contacts with their eligible Phase 1 customers and to provide the customers with similar surcharge estimates to use as a basis for decision-making.
- (2) By January 15, 2009, eligible Phase 1 customers will notify their electric provider of their intent to implement a self-directed energy optimization program.
- (3) By January 30, 2009, customers will submit a self-directed energy optimization plan to their electric provider. For administrative efficiency, customers shall file their self-direct plans using a standardized template. A draft of the self-direct energy optimization plan template is included in Attachment E to this order. The final version of the self-direct energy optimization plan template to be used by interested Phase 1 customers shall be completed and made available to them by January 5, 2009.
- (4) If the providers identify any insufficiencies in the self-direct energy optimization plans submitted to them, they will notify the customers of the insufficiency and request the information necessary to make the application complete. The notification of insufficiency shall be sent to the customer by February 6, 2009.
- (5) Customers must remedy any self-direct energy optimization plan insufficiencies within one week: by February 13, 2009, if they wish to proceed with plan implementation. An extension to this date may be granted by mutual agreement of the parties as long as doing so does not interfere with the overall schedule of the provider's energy optimization plan implementation.

C. Exemption from energy optimization plan surcharge

Section 93(7) states that, "Once a customer begins to implement a self-directed plan at a site covered by the self-directed plan, that site is exempt from energy optimization program charges under section 89 or 91 and is not eligible to participate in the relevant electric provider's energy

optimization programs.” A self-direct energy optimization plan shall be considered complete, and the customer exempt from the provider’s energy optimization surcharge in the next billing cycle after the start date for the first action item in the customer’s self-direct energy optimization plan. This is true for a customer with a single site or several sites aggregated together. The plan, including the implementation schedule and expected energy savings, must be attested to as true and accurate by a knowledgeable official of the customer. Customers must comply with the statutory self-direct plan reporting requirements to retain the exemption from the surcharge.

8. Definition of Natural Gas Retail Sales for an IOU.

A. For the savings targets identified in Act 295, Section 77(3).

A natural gas provider shall meet the following minimum energy optimization standards using energy efficiency programs under this subpart:

(a) Biennial incremental energy savings in 2008-2009 equivalent to 0.1% of total annual retail natural gas sales in decatherms or equivalent Mcfs in 2007.

For the savings targets, the percentage will be applied to sales volumes including gas customer choice, but not including gas transportation sales volumes. The savings targets are adjusted through weather normalization or a three year averaging method allowed by Section 77(5).

B. For the spending caps identified in Act 295, Section 89(7).

A natural gas provider or an electric provider shall not spend more than the following percentage of total utility retail sales revenues, including electricity or natural gas commodity costs, in any year to comply with the energy optimization performance standard without specific approval from the Commission: (a) In 2009, 0.75% of total retail sales revenues for 2007.

For spending caps, the percentage will be applied to **total** retail gas sales revenue including gas customer choice revenue, but excluding gas transportation distribution revenues.

OTHER GENERIC ISSUES

Information Required on Customer Bills

The following excerpt from Section 45(5) addresses requirements for information to be provided to residential customers regarding both the renewable energy and energy optimization programs:

In its billing statements for a residential customer, each provider shall report to the residential customer all of the following in a format consistent with other information on the customer bill:

- (a) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the renewable energy program requirements of this act. In the first bill issued after the close of the previous year, an electric provider shall notify each residential customer that the customer may be entitled to an income tax credit to offset some of the annual amounts collected for the renewable energy program.
- (b) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the energy optimization program requirements of this act.
- (c) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the reductions in the monthly energy bill produced by the energy optimization program under this act.
- (d) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the long-term, life-cycle, levelized costs of building and operating new conventional coal-fired electric generating power plants avoided under this act as determined by the commission.

This language appears to be striving for a balanced presentation to customers of the costs and benefits of the renewable energy and energy optimization plans. Section 45(5)(a) requires disclosure of renewable energy plan costs; (5)(b) requires disclosure of energy optimization plan costs; (5)(c) requires disclosure of energy optimization plan savings; and (5)(d) requires disclosure of renewable energy plan savings (avoided costs).

With respect to Section 45(5)(c), the inclusion of the phrase “for that customer” makes this subsection somewhat unclear. When read in the context of the other section requirements, the Commission interprets this subsection to require reporting to the residential customer the estimated annual savings of the provider’s entire energy optimization plan broken down into monthly increments.

Recovery of Costs from Customers

Section 89(2) states: “Under subsection (1), costs shall be recovered from all natural gas customers and from residential electric customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered electric customers by an appropriate charge, applied to utility bills as an itemized charge.”

Recovery of costs from commercial and unmetered customers must be accomplished in a fair manner. In particular, the electric commercial customer class has significant diversity of load characteristics within the class. Some commercial customers have load characteristics similar to residential customers, while others have annual consumption levels on par with major industrial customers. If provider energy optimization plans include only a single per-meter charge across the entire commercial customer class, inequities will necessarily be created. The Commission directs providers to include in their energy optimization plan filings proposals for multiple per-meter charges for commercial customers that will reflect the diverse load characteristics within the commercial customer class. At the same time, the Commission finds that rate regulated electric providers should include suggestions in their renewable energy plan filings regarding the appropriate charges for the electric provider’s tariffs, which is a matter for the Commission to determine under Section 45(1).

The Commission notes that Act 295 is silent on the issue of whether or not unmetered electric customers must contribute toward a regulated provider's renewable energy plan. Recovery of the incremental cost of compliance is, pursuant to Section 45(2) to be through an "itemized charge on the customer's bill". Although the retail rate limits specified in Section 45(2) are defined in terms of a dollar amount per "customer meter," it is apparent that the Legislature intended recovery of the incremental cost of compliance to include unmetered customers, because unmetered customer bills can include an itemized charge, and an itemized charge can be developed for unmetered customers that is less than the retail rate impact limits specified by Section 45(2). The Commission finds that recovery of the incremental cost of compliance for renewable energy plans shall include unmetered electric customers.

Low Income Customers

An energy optimization plan must do a number of things in Section 71(3)(a) including: "propose a set of energy optimization programs that include offerings for each customer class, including low income residential. The commission shall allow providers flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory." The Commission takes very seriously the potential impact on low income customers of the surcharges associated with the renewable energy and energy optimization plan. While recognizing the intended net benefit to ratepayers of the mandated plans, the Commission wants to ensure that every effort is made to enable low income customers to experience net reductions in their energy bills in the near term. The Commission would like to see creative and focused efforts to target energy optimization program services to distinct subsets of the low income customer population. In some cases, this targeting may entail actual differences in program services. In other cases, it may involve different marketing approaches for the same basic

services. The Commission would also encourage, to the greatest extent possible, the coordination of energy optimization program services with other energy-related assistance programs such as home repair and weatherization efforts.

CONCLUSION

The Commission has selected the cases resulting from this order for participation in its paperless docket program. All documents filed in any of these cases shall be submitted electronically through the Commission's E-Dockets Website at: michigan.gov/mpscedockets. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to mpscedockets@michigan.gov. If you require assistance prior to e-filing, contact Commission staff at (517) 241-6170 or by e-mail at mpscedockets@michigan.gov.

THEREFORE, IT IS ORDERED that:

A. All providers are ordered to file renewable energy plans and/or energy optimization plans, and supporting testimony and exhibits if applicable, as provided in this temporary order, its attachments, and 2008 PA 295, MCL 460.1001 *et seq.*

B. The provisions of Attachments A through G of this order are adopted for all initial renewable energy plan and/or energy optimization plan filings, as applicable, under the respective attachments and 2008 PA 295, MCL 460.1001 *et seq.*

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of December 4, 2008.

Mary Jo Kunkle, Executive Secretary

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Renewable Energy Plans
for Michigan Investor-Owned Retail Rate-Regulated Electric Utilities
and Retail Rate-Regulated Electric Cooperatives**

PA 295 of 2008 Section 21(2) *Each electric provider shall file a proposed renewable energy plan with the commission within 90 days after the commission issues a temporary order under section 191. The proposed plan shall meet all of the following requirements:*

- (a) Describe how the electric provider will meet the renewable energy standards..*
- (b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved the by commission, this option shall not be changed.*
- (c) Include the expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the commission.*
- (d) For an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008, describe the bidding process to be used by the electric provider under section 33. The description shall include measures to be employed in the preparation of requests for proposals and the handling and evaluation of proposals received to ensure that any bidder that is an affiliate of the electric utility is not afforded a competitive advantage over any other bidder and that each bidder, including any bidder that is an affiliate of the electric provider, is treated in a fair and nondiscriminatory manner.*

PA 295 of 2008 Section 21(3) *The proposed plan shall establish a nonvolumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer power supply rates.*

The following suggests several elements that address the specific items referenced in the above language in **PA 295 of 2008 Section 21(2)(3)**. These elements are based on current rate case standard filing requirements, PSCR filing requirements as well as RPS filing requirements of other utilities across the country. These suggestions are intended to be used only as initial guidance. They are not necessarily exhaustive.

1. Sales Forecast through 2015

- Specify whether megawatt hours of electricity used in the calculation is weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to full service retail customers in the state (**PA 295 of 2008 Section 21(2)(b)**)

2. 20-Year Forecast of Meters by Customer Class

- This is needed in order to determine retail rate impacts by customer class (**PA 295 of 2008** Section 45(2))

3. Quantity of RECs

- Outline the quantity of RECs the Company forecasts it must obtain each year to meet RPS (**PA 295 of 2008** Section 27(3))

4. Detailed Resource Plan

- Describe the Company's planned renewable and advanced cleaner energy capacity portfolio. Include schedule of forecasted construction and purchases. (**PA 295 of 2008** Section 27(1)(2)).
- Describe the Company's planned renewable and advanced cleaner energy credit portfolio and how it will meet the 50%, 50% allocation requirement (Detroit Edison and Consumers Energy only). Include schedule of forecasted construction and purchases. (**PA 295 of 2008** Section 33(1))
- Forecast RECs obtained via the Michigan incentive RECs as provided for in **PA 295 of 2008** Section 39 (2)(a)(b)(c)(d)(e)
- Forecast expected compliance levels by year to meet the renewable and advanced cleaner energy capacity portfolio targets.
- Forecast expected compliance levels by year to meet the renewable and advanced cleaner energy credit portfolio targets.
- Identify key assumptions used in developing these forecasts and the proposed resource portfolio.
- Identify risks which may drive performance to vary.

5. RFP/Bidding Process and Approach

6. Wholesale Customer Treatment (**PA 295 of 2008** Section 35(1)(a)(b))

7. "Transfer Price" Forecast

- Forecast a price per MWh for each of the 20 years for renewable and advanced cleaner energy sold to full service retail customers, which will be used in calculating net incremental cost. (**PA 295 of 2008** Section 47 2(b)(iv))

8. Revenue Requirement

- Per (**PA 295 of 2008** Section 47(2)) Incremental costs of compliance **shall be calculated to include the following:**

Attachment A

- Capital, operating and maintenance costs for renewable energy systems or advanced cleaner energy systems (including property taxes and insurance for renewable energy systems)
- Financing costs
- Costs that are not otherwise recoverable in base rates including interconnection and substation costs
- Ancillary service costs
- Cost of purchased RECs other than those purchased for non-compliance with **PA 295 of 2008** Section 27
- Cost of contracts per **PA 295 of 2008** Section 33(1)
- Expenses incurred as a result of governmental action including changes in tax or other laws
- Any other costs that are necessary to implement the 20-year plan
- Subtract revenues as identified in **PA 295 of 2008** Section 47 2(b) – ex. transfer price, environmental attributes, interest on regulatory liability etc.
- Recovery to include the authorized rate of return on equity, which will remain fixed at the rate of return and debt to equity ratio that was in effect in base rates when the renewable plan was approved (**PA 295 of 2008** Section 47(1))
- Recommendation of minimum Regulatory Liability and forecast of interest rate used to accrue (**PA 295 of 2008** Section 21 (4))
- The utility's current cost of service study will be used

9. Cost Recovery Mechanism

- 20-year forecast of nonvolumetric surcharge (**PA 295 of 2008** Section 21 (3))
- 20-year forecast of regulatory liability balance

10. Tariff Filings Reflecting the Cost Recovery Mechanism

11. Suggested Templates for Filing Requirements

ATTACHMENT A - RENEWABLE ENERGY PLAN SURCHARGE SUMMARY

	<u>Units</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>
XXX Sales Forecast																						
(XXX = Weather Normalized or 3-yr running average)																						
RPS Requirement	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Required REC's	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
(-) REC's from Existing Renewable Energy Supply(Pre RPS)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Credit Compliance																						
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance Balance	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
RECs Eligible for Carryover	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Capacity Compliance																						
Required Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Obtained Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance Balance	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Revenue Requirement																						
Build/BOT	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
REC Purchases (Sales)	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained																						
Generation Based																						
Build/BOT	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Purchase (Sold)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Incentive (SB 213 Sec 39 (2))	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Forecasted Transfer Price per MWH	\$/MWH	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Amount recovered through PSCR	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transfer price x volume of energy																						
Incremental Cost of Compliance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Volumetric Surcharge																						
Meter (or customer) Forecast																						
Residential	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Secondary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Primary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Maximum Surcharge (all rate classes at caps)																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Planned Surcharge																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Year End Regulatory Liability Balance																						
Proposed Minimum	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forecast	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Carrying Charges (Short-term interest)	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Balance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Renewable Energy Plans
for Alternative Electric Suppliers
and Member-Regulated Electric Cooperatives**

PA 295 of 2008 Section 23(2) *Each alternate electric supplier or electric cooperative shall file a proposed renewable energy plan with the commission within 90 days or 120 days, respectively, after the commission issues a temporary order under section 191. The proposed plan shall meet all of the following requirements:*

- (a) Describe how the electric provider will meet the renewable energy standards..*
- (b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved the by commission, this option shall not be changed.*

The following suggests elements that address the specific items referenced in the above language **PA 295 of 2008** Section 23(2). These suggestions are intended to be used only as initial guidance. They are not necessarily exhaustive.

1. Detailed Resource Plan See (a) above re Section 23 compliance.
2. Wholesale Customer Treatment (**PA 295 of 2008** Section 35(1)(a)(b)) Only applies if AES purchased PURPA capacity.
3. Suggested Templates for Filing Requirements

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Renewable Energy Plans
for Municipally-Owned Electric Utilities**

PA 295 of 2008 Section 25(2) Each municipally-owned electric utility shall file a proposed renewable energy plan with the commission within 120 days after the commission issues a temporary order under section 191. The proposed plan shall meet all of the following requirements:

- (a) Describe how the electric provider will meet the renewable energy standards.*
- (b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved the by commission, this option shall not be changed.*
- (c) Include the expected incremental cost of compliance with the renewable energy standards.*
- (d) Describe the manner in which the provider will allocate costs.*

The following suggests elements that address the specific items referenced in the above language **PA 295 of 2008** Section 25(2). These suggestions are intended to be used only as initial guidance. They are not necessarily exhaustive.

1. Sales Forecast through 2015

- Specify whether megawatt hours of electricity used in the calculation is weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to full service retail customers in the state (**PA 295 of 2008** Section 21(2)(b))

2. 20-Year Forecast of Meters by Customer Class

- This is needed in order to determine max. surcharges by customer class (**PA 295 of 2008** Section 45(2))

3. Quantity of RECs

- Outline the quantity of RECs the Company forecasts it must obtain each year to meet RPS (**PA 295 of 2008** Section 27(3))

4. Detailed Resource Plan See (a) above re Section 25 compliance.

Attachment C

5. Wholesale Customer Treatment (**PA 295 of 2008** Section 35(1)(a)(b)). Only applies if Municipal purchased PURPA capacity.
6. Incremental Cost of Compliance
7. Cost Recovery Mechanism
8. Suggested Templates for Filing Requirements

ATTACHMENT C - RENEWABLE ENERGY PLAN SURCHARGE SUMMARY -

	<u>Units</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>
XXX Sales Forecast																						
(XXX = Weather Normalized or 3-yr running average)																						
RPS Requirement	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Required REC's	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
(-) REC's from Existing Renewable Energy Supply(Pre RPS)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Credit Compliance																						
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance Balance	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
RECs Eligible for Carryover	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Capacity Compliance																						
Required Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Obtained Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance Balance	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Revenue Requirement																						
Build/BOT	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
REC Purchases (Sales)	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained																						
Generation Based																						
Build/BOT	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Purchase (Sold)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Incentive (SB 213 Sec 39 (2))	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Forecasted Transfer Price per MWH	\$/MWH	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Amount recovered through PSCR	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transfer price x volume of energy																						
Incremental Cost of Compliance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Volumetric Surcharge																						
Meter (or customer) Forecast																						
Residential	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Secondary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Primary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Maximum Surcharge (all rate classes at caps)																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Planned Surcharge																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Year End Regulatory Liability Balance																						
Proposed Minimum	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forecast	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Carrying Charges (Short-term interest)	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Balance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

**Michigan Public Service Commission
2008 PA 295**

**Guidelines for Competitive Request for Proposal
for Renewable and Advanced Cleaner Energy
(Applicable for Detroit Edison and Consumers Energy Only)**

Public Act 295 of 2008 establishes requirements for certain electric utilities and other electric load serving entities (collectively, “LSE” or “Provider”) to provide a percentage of electric sales with energy generated with renewable sources. In accordance with Section 33, up to one-half (1/2) of the incremental renewable or advanced cleaner energy credits used for compliance can be obtained from the transfer of ownership of renewable or advanced cleaner energy systems developed by 1 or more third parties, including affiliated developers, pursuant to a contract with the developer under which ownership of the renewable or advanced cleaner energy system may be transferred to the Provider after commercial operation. The contracts for third party development of renewable and advanced cleaner energy systems under which the ownership may transfer to the Provider after commercial operation are required to be obtained through a competitive bidding process conducted pursuant to guidelines issued by the Michigan Public Service Commission. However, the Provider may consider unsolicited proposals provided to it outside of a competitive bidding process, and if the Provider determines that such an unsolicited proposal provides opportunities that may not be otherwise available or commercially practical, the provider may enter into the contract with the third party developer. The contract is subject to review and approval by the Commission.

In addition, at least one-half (1/2) of the incremental renewable or advanced cleaner energy credits to be acquired by Providers shall be from contracts with unaffiliated developers which do not require transfer of ownership of the renewable or advanced cleaner energy system to the Provider and is required to be obtained through a competitive bidding process conducted pursuant to guidelines issued by the Michigan Public Service Commission. An exception to the need for an RFP would be REC transactions completed through established REC markets or auctions. Also, an electric provider may consider unsolicited proposals presented to it outside of a competitive process by a renewable or advanced cleaner energy developer that is not affiliated with the electric provider. The contract is subject to review and approval by the Commission.

- 1. Each Provider shall identify qualified potential suppliers and maintain a list of qualified potential suppliers with current contact information.** Each Provider may qualify potential suppliers and limit potential supplier’s participation in solicitations based on parameters, such as:
 - a. Credit worthiness;
 - b. Experience in providing products and services;
 - c. Past performance;
 - d. Ability to deliver; and

Attachment D

- e. Compliance with Federal, State and local laws.
2. **Each Provider shall treat affiliates in a fair and nondiscriminatory manner.** Any proposal submitted by an affiliate of the Provider shall be consistent with the code of conduct under section 10a(4) of 1939 PA 3, MCL 460.10a and the sanctions for violation of the code under section 10c of 1939 PA 3, MCL 460.10c.. In addition, affiliates are not to be afforded any competitive advantage over any other bidders. In qualifying an affiliate, the Provider shall consider the affiliate’s qualifications without any reliance on the credit worthiness, experience or past performance of the Provider.
3. **Each Provider shall, to the extent commercially practical, solicit qualified renewable or advanced cleaner energy resources using a written Request for Proposal (“RFP”) issued to qualified potential suppliers.** The RFP should at a minimum include the following elements:
- a. ***RFP Scope or Description of Need*** A description of products or services solicited. The description should include items such as: type of renewable resource, quantity or amount, contract term, background information, location preferences, and regulatory context.
 - b. ***RFP Schedule*** defining:
 - i. *RFP Release date;*
 - ii. *Pre-bid conference date (if necessary);*
 - iii. *Notice of Intent to Bid date (if necessary);*
 - iv. *Bid Due date;*
 - v. *Short List Notification date (Estimated based on the proposal evaluation);*
 - vi. *Final Selection date (Estimated based on the bid evaluation process).*
 - c. ***Notice of Intent to Bid (“NOIB”) Process.*** The Provider may require qualified potential suppliers to provide a NOIB so as to facilitate:
 - i. *Orderly evaluation of responding proposals; and*
 - ii. *Communications regarding any clarifications to the RFP.*
 - d. ***Pre-bid Conference.*** The Provider may conduct a pre-bid conference with all qualified potential suppliers that filed a NOIB. Any materials presented in such meeting and a record of all questions asked and the response to all questions asked shall be incorporated into the RFP.
 - e. ***Confidentiality of Proprietary Information.*** The Provider shall take reasonable measures to prevent the disclosure of confidential and proprietary information contained in proposals provided by qualified potential suppliers.

Attachment D

- f. ***Non-refundable Bidding Fee.*** The Provider may require qualified potential suppliers responding to the RFP to provide a reasonable non-refundable bidding fee with each proposal to help defray the cost of evaluating the bids.
 - g. ***Proposal Content Requirements and Submission Procedure.*** The Provider may require that proposals be organized in a manner that facilitates efficient evaluation of proposals.
 - h. ***Status of Generating Facility.*** The Provider may require proposals to address the status of arrangements to provide reliable delivery of the products and services, including (but not limited to): Evidence of land control including plat maps identifying the location of existing easements/leases used for the renewable or advanced cleaner energy system and a list of key easement/lease provisions regarding land usage rights and term; transmission studies; studies or reports regarding wildlife, avian migration, habitats, endangered species, bats, wetlands, contamination, radar, microwave and FAA/MAC height restrictions; wind performance and fuel supply forecast, evidence that the generating facility qualifies as a Renewable Energy System as defined pursuant to PA 295, building permits; contracts for construction; equipment supply agreements; and completion schedule.
 - i. ***Proposal Validity.*** The Provider may require proposals to be valid for a period sufficient to allow for proposal evaluation, Commission consideration of bids selected, contract execution and Commission review and approval of any resulting contract.
- 4. Each Provider shall develop a bid evaluation methodology in consultation with the Commission Staff to evaluate proposals received.** Essential evaluation criteria shall be provided to all suppliers providing notice of intent to bid. In its solicitation, each provider shall describe the evaluation criteria. The bid evaluation process may include an assessment of both price and non-price factors. For bids that do not require transfer of ownership of the applicable renewable energy system to the Provider; such methods shall result in a determination of least price conforming bid(s) from a qualified bidder.

The Provider may weigh non-price items and assign a corresponding bid price credit or bid price debit for differences between bids associated with the progress of developing a renewable energy system to supply the products or services to the Provider, the proposed schedule for completing the renewable energy system to supply the products or services to the Provider, the reliability of equipment, and other matters relating to the likely success of the proposal in providing the products or services to the Provider.

Attachment D

In the event the least cost conforming bid from a qualified bidder is of a quantity or size that will exceed the Provider's requirements, the Provider may negotiate a reduction in quantity or size so as to conform to the Provider's requirements.

- 5. Each Provider shall maintain a copy of the RFP, proposals submitted in response to the RFP, and a summary of the Provider's evaluation of proposals from qualified potential suppliers in a format to prevent disclosure of any proprietary and confidential information.** For purposes of conducting audits or reviews of the process used by the provider to evaluate bids and award contracts, the Commission Staff or its third-party designee shall have access to proposals submitted by the potential suppliers, internal evaluative documentation, and any other information related to the bidding process.

Table 1: Proposed Renewable Energy Contract Review and Approval Matrix

<u>CONTRACT TYPE</u>	<u>COMPETITIVE BID REQUIRED (1)</u>	<u>PRIOR MPSC APPROVAL REQUIRED</u>	<u>REQUIRED TO FOLLOW MPSC GUIDELINES</u>
<u>SELF BUILD (EPC)</u>	YES	ALL	NO
<u>PURCHASE POWER AGREEMENTS</u>	YES	ALL	YES
<u>ASSET PURCHASES Sec 33(1)(a)(ii)</u>	YES	ALL	NO

PROPOSED EXCLUSIONS INCLUDING BUT NOT LIMITED TO:

Land Acquisition Contracts
 Developmental Studies Contracts, including; environmental, wildlife
 Post-commissioning contracts
 Consulting services contracts
 REC transactions from established REC markets or auctions
 Interconnection Contracts
 (1) Excluding unsolicited bids

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Provider Energy Optimization Plans**

For providers whose rates are regulated by the Commission, a plan shall be filed within 90 days after the issuance by the Commission of a temporary order pursuant to Section 191 of PA 295. For a municipally-owned electric utility or a cooperative electric utility that has elected to become member-regulated, a plan shall be filed within 120 days after such issuance of a temporary order. Within 90 days of receiving an energy optimization plan from the provider, the Commission will approve, approve with changes consented to by the provider, or reject the plan. If the Commission rejects a proposed plan or amendment under this section, the Commission shall explain in writing the reasons for its determination.

The following provisions shall apply to the initial proposed Energy Optimization Plan filed by a provider under 2008 PA 295, Section 71. As stated in Sec. 71 (2): “The overall goal of an energy optimization plan shall be to reduce the future costs of provider service to customers. In particular, an EO plan shall be designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of such construction.”

1) Plan Requirements

The Energy Optimization Plan shall:

- a) Propose a set of energy optimization programs over a multi-year time period of at least 2 years but not greater than 6 years allowing for a

Attachment E

biennial update or revision that includes offerings for each customer class, including low income residential.

- b) Specify necessary funding levels recognizing the spending caps¹ and their ramp up levels for each year as identified in Public Act 295 (“PA 295”) to achieve the energy savings targets identified in PA 295, Sec. 77. If the provider’s spending requirements needed to meet the mandated energy savings targets exceed the annual sales revenue expenditure limits imposed in PA 295, Sec. 89(7), the provider may seek approval from the commission to exceed the sales revenue expenditure limits to comply with the annual savings targets.
- c) Describe how energy optimization program costs will be recovered from all customers pursuant to Sec. 89(2).
- d) Demonstrate that the proposed energy optimization programs and funding are sufficient to ensure the achievement of applicable energy optimization performance standards.
- e) Demonstrate that proposed energy optimization programs, excluding program offerings to low income residential customers, will collectively be cost effective using the Utility System Resource Cost Test (USRCT). Individual programs need not pass the USRCT. However, in order to provide the Commission with sufficient information to support the proposed distribution of energy optimization funds among the portfolio of proposed programs, the filed plan will include multiple cost-effectiveness tests for individual programs including: USRCT, Total Resource Cost Test, Rate Impact Measure Test and Participant Cost Tests, Data shall be used to ensure , to the extent feasible, that charges collected from a particular

¹ Sec. 71(5): Education Programs; Sec.75: Financial Incentives; Sec. 89(7): Overall Spending Caps. See also related Cost Recovery Caps in Sec. 89(3).

Attachment E

customer rate class are spent on energy optimization programs for that rate class..

- f) Include a plan for the practical and effective administration of the proposed energy optimization programs.
- g) Include a process for obtaining an independent expert evaluation of the actual energy optimization programs to verify the incremental gross energy savings from each energy optimization program. The vendor(s) selected to provide evaluation services for the provider must be independent from any vendor(s) that are selected by the provider to provide implementation services.
- h) Allow for the coordination of energy optimization programs and services with those of other utilities, agencies and the Commission-administered program..
- i) Include provisions to accommodate self-directed energy optimization plans by eligible electric customers.

2) Definition of Terms

- a) Cost effective means that the overall plan being evaluated meets the Utility System Resource Cost Test (USRCT).
- b) Energy conservation means the reduction of customer energy use through the installation of measures or changes in the energy usage behavior. Energy conservation does not include the use of advanced cleaner energy systems. (Sec.5(c)).
- c) Energy efficiency means a decrease in customer consumption of electricity or natural gas achieved through measures or programs that target customer behavior, equipment, devices, or materials without reducing the quality of energy services. (Sec.5(d)).

Attachment E

- d) Energy optimization means all of the following: energy efficiency, load management to the extent that the load management reduces overall energy usage, energy conservation, (only to the extent that the decreases in the consumption of electricity produced by energy conservation are objectively measurable and attributable to an energy optimization plan) (Sec. 5(e)). Energy optimization does not include electric provider infrastructure projects that are approved for cost recovery by the commission other than as provided in PA 295 (Sec 5(f)).
- e) For 2009/2010, an eligible primary or secondary customer, with respect to an electric provider means a customer at a single premise with an annual billing demand greater than 2 megawatts. It also includes a customer with an aggregate demand of at least 10 megawatts at all facilities within the provider's service territory. For 2011 -2013, it means a customer with billing demand of 1 megawatt or an aggregate demand of 5 megawatts. After 2015, it means an aggregated demand of 1 megawatt.
- f) The USRCT is the method to use to evaluate the cost effectiveness of the energy efficiency portfolio. This method takes into account the avoided supply costs of energy and demand, the reduction in transmission, distribution, generation, future carbon tax, and capacity valued at marginal costs for the periods when there is a load reduction. The avoided supply costs should be calculated using gross program savings. The costs for the USRCT are the program costs (including marketing and customer acquisition), incurred by the administrator, the incentives paid to the customers, and the increased supply costs for the periods in which load is increased. Administrator program costs include initial and annual costs, such as the cost of provider equipment, operation and maintenance, installation, program administration, incentive to the provider, cost of

Attachment E

capitalization, and customer dropout and removal of equipment (less salvage value). At the option of the provider, either the cost-based value provided by the commission or the MISO market-based value can be used as a determinant in estimating the avoided cost. The following formulae should be used to perform this test. The formulas for the net present value, the benefit-cost ratio and levelized cost are presented below:

$$NPV_{pa} = B_{pa} - C_{pa}$$

$$BCR_{pa} = B_{pa}/C_{pa}$$

$$LC_{pa} = LC_{pc}/IMP$$

Where:

NPV_{pa} = Net present value of Program Administrator costs

BCR_{pa} = Benefit-cost ratio of Program Administrator costs

LC_{pa} = Levelized cost per unit of Program Administrator cost of the resource

B_{pa} = Benefits of the program

C_{pa} = Costs of the program

LC_{pc} = Total Program Administrator costs used for levelizing

IMP = Total discounted load impacts of the program

3) Plan Elements

- a) The Energy Optimization Plan should include a general description of the methodology and analytical process used to select the measures and programs contained within the plan. This general methodology and analytical process description should include any strategies employed to maximize spillover effects and to minimize free-riders.

Attachment E

- Additionally, the provider should provide a description of all models, commercial and custom software applications, data providers, and other tools that were used as part of the energy optimization planning process.
- b) Each energy optimization program proposed within the plan should include at a minimum all elements as delineated in the Program Summary in Sample Table 1 and be summarized using the portfolio summary in Sample Table 2. Energy savings and average measure life values for eligible energy optimization measures should be obtained from the proposed Michigan Statewide Energy Measures Library/Database. Utilities may reserve up to twenty percent of the overall budget (by class) to ensure program flexibility. This will allow funds budgeted in a certain program area to be reallocated to other program areas (within the same class) that are deemed cost effective, or where technology or market participation impacts make it necessary to provide additional resources.
 - c) Utilities may designate up to five percent of the energy optimization budget for pilot programs, future energy optimization program development or to assess emerging technologies. As technology changes, impacts to program success can be great. Programs need to incent customers to move above the base efficiency available to them. These budget funds will be deemed to generate a proportional amount up to five percent of the required energy savings for the program year during which the money is spent.
 - d) Up to three percent of the energy optimization budget may be used for the cost of energy optimization education programs. Energy optimization education program costs include all media types (pamphlets, brochures, DVD's, web sites, etc.) that are designed to communicate to and educate customers on the benefits of energy efficiency, conservation and load

Attachment E

management. These budget funds will be deemed to generate a proportional amount up to three percent of the required energy savings for the program year during which the money is spent. Energy optimization education program costs do not include promotion of any specific energy optimization program or any efforts designed to educate low income residential customers.

- e) Funding for low income residential programs shall be provided from each customer rate class in proportion to that rate class' funding of the provider's total energy optimization programs, prior to those customers electing to self-direct. Low income customers are defined as customers with income up to 200% of the federal poverty level as defined by the U.S. Department of Health and Human Services. This program may include educational components. Existing agencies may be utilized to implement this program.
- f) No more than eight percent of the energy optimization budget should be allocated for program evaluation, measurement and verification activities to determine actual program energy savings.

4) Self-Directed Energy Optimization Plan for Electric Customers

- a) An eligible non-residential primary or secondary electric customer may file with the provider a multi-year (two or more years) self-directed energy optimization plan as provided in this section if it meets the eligibility requirements in PA 295. As used in this section, a customer is defined as the legal owner of a business. For purposes of aggregation, the customer or parent company need not aggregate all company-owned

Attachment E

facilities. For example, facilities that are designated as franchise operations may be aggregated.

- b) The following plan requirements apply to a self-directed energy optimization plan.
 - i) Initially, a customer electing to implement a self-directed energy optimization plan in 2009 must notify its electric provider of its intent to self-direct by January 15, 2009. The initial notification must include a listing of all sites to be covered in the self-direct plan, and an approximate level of megawatt hour savings. Upon notification, the electric provider promptly will send information to the customer on the electric provider's method and any factors used to weather-normalize its megawatt hours of electricity. This self-direct notification from the customer will provide the electric provider the information necessary for energy optimization planning.
 - ii) The customer must submit its self-direct plan to the electric provider by January 30, 2009. For purposes of administrative efficiency, customers will file their self-direct plans using a standardized template. A prototype of the Self-Direct EO Plan template is included as Sample Form 1 at the end of this document. The initial Self-Direct EO Plan Template to be used by interested Phase 1 customers shall be completed and made available to them by January 5, 2009. If the plan is incomplete, the provider will notify the customer of any deficiency within 5 business days. The customer must remedy the deficiency within 5 business days thereafter.
 - iii) The self-directed energy optimization plan shall be in writing and signed by an individual or corporate officer with knowledge of the plan content and responsibility for its implementation and administration.

Attachment E

- iv) The self-directed plan shall provide for aggregate energy savings that for each year meet or exceed the statutory energy optimization standards based on the electricity purchases in the previous year(s) for the site or sites covered by the self-directed plan.
 - v) Energy optimization shall be calculated so that none of the following are included in the calculation of the percentage of incremental energy savings:
 - (1) Changes in electricity usage to account for changes in business activity levels not attributable to energy optimization, including such things as site closures, increases or decreases in production, and increases or decreases in hours of operation.
 - (2) Increases in electricity usage because of the installation, operation, or testing of pollution control equipment.
 - vi) A customer filing a self-directed plan with its provider shall specify whether electricity usage used in the calculation of incremental energy savings will be weather-normalized or based on the average number of megawatt hours of electricity consumed by the customer annually during the previous three years.
 - vii) The self-directed plan shall outline how the customer intends to achieve the incremental energy savings specified in the self-directed plan.
 - ix) The customer will be required to remain in the self-directed program for the period specified in the customer's self-directed plan.
- c) A self-directed energy optimization plan shall be incorporated into the relevant electric provider's energy optimization plan. The electric provider shall be credited with the customer's projected energy savings from measures being proposed under a self-directed plan for purposes of

Attachment E

determining annual incremental energy savings achieved by the provider. The customer's projected energy savings shall be adjusted to match the provider's method of weather-normalization.

- d) All projects submitted by the customer are subject to field verification and evaluation.
- e) A provider will exempt the customer from surcharges, except those it would otherwise incur under the energy optimization program after the customer begins to implement a self-directed plan. See, Section 89(5) of Act 295. When the customer's self-directed plan ends, full surcharges will resume.
- f) The following reporting requirements shall be met for customers that implement a self-direct energy optimization plan.
 - i) The customer shall submit to the relevant provider a brief report every 2 years documenting the energy efficiency measures taken under the self-directed plan during that 2-year period and the associated energy savings.
 - ii) A report under this subsection shall be accompanied by an affidavit from a knowledgeable official of the customer that the information in the report is true and correct to the best of the official's knowledge and belief. If the customer has retained an independent energy optimization service company, the requirements of this subsection shall be met by the energy optimization service company.
 - iii) The report shall specify types of measures installed or process changes, expected service life of the measures installed and sufficient calculations to substantiate the energy savings.
 - iv) The customer shall promptly notify the relevant electric provider if it fails to achieve the expected annual incremental energy savings set

Attachment E

forth in the self-directed plan for a year that will be the first year covered by the next biennial report.

- v) The customer notification must cite reasons for the inability to achieve the expected savings and the customer must file an amended plan with the provider to satisfy the requirements for incremental savings in subsequent years.
- vi) If a customer fails to submit its biennial report, the provider will promptly send a notice to the customer requesting the delinquent report.
- g) The electric provider review and evaluation of the customer's energy savings calculations are limited to verifying that calculations are provided and cover the applicable measures. The provider's evaluations will include review of the customer's plans and reports and will not include field verifications.
- h) An electric provider shall provide an annual report to the commission identifying customers that have implemented self-directed energy optimization plans and summarize the results achieved under those self-directed plans.
 - i) The provider's annual report to the commission will also list those customers who have failed to meet their portion of the annual performance standard.
 - ii) The commission may request additional information from the provider or customer that describes the reasons for failing to meet the annual performance standard.
 - iii) The commission, at its discretion, may request a contested case hearing involving those customers identified as failing to meet their portion of the annual performance standard.

Attachment E

- iv) This annual report for self-direct information may be combined with the provider's annual report submitted to the commission relating to actions taken by the provider to comply with the energy optimization standards.
- i) The commission may require additional information from the electric provider or customer if the commission has sufficient reason to believe the information contained in the annual report is inaccurate or incomplete.
- j) The following are additional commission requirements under the self-directed energy optimization plan.
 - i) All customers filing a self-directed energy optimization plan will be responsible for the cost associated with the allocated portion for the provider's low income residential energy optimization program. These costs will be determined in the provider's approved plan filing.
 - ii) For all plan years beginning in 2011 or later, the cost to the customer for the provider's review and evaluation, and contribution to the low income energy optimization program will be proposed for approval by the commission in the electric provider's energy optimization plan filing.
 - iii) If the commission determines after a contested case hearing that the minimum energy optimization goals have not been achieved at the site(s) covered by a self-directed plan, in aggregate, the commission shall order the customer, or customers, to pay an amount as calculated as follows:
 - (1) Determine the proportion of the shortfall in achieving the minimum energy optimization goals.
 - (2) Multiply the figure in (1) by the energy optimization charges from which the customer or customers collectively were exempt under the self-directed energy optimization plan.

Attachment E

- (3) Multiply the product under subsection (2) by a number not less than 1 or not greater than 2, as determined by the commission based on reasons for failure to meet the minimum energy optimization goals.
- k) If a customer has submitted a self-directed plan to an electric provider, the customer, the customer's energy optimization service company, if applicable, or the electric provider shall provide a copy of the self-directed plan to the commission upon request.

5) Provider Incentive

A provider meeting the energy reduction goals identified in its approved MPSC Energy Optimization Plan is eligible to receive a financial incentive for that performance. The incentive mechanism should be proposed in the provider's energy optimization plan. A provider may receive a financial incentive that shall not exceed the lesser of 25% of the net cost reductions experienced by the provider's customers as a result of implementation of the energy optimization plan or, up to a maximum of 15% of the provider's actual energy optimization plan expenditures.

Proposed Energy Optimization Planning Guidelines

Sample Table 1: Program Summary

Program Element	Note class of customer and type of program being summarized.
Objective	Overall goals and objectives of the subject program
Target Market	Provide the specific customer class and any particular segmentation within that class for which the programs are designed. Note specific information concerning which customers are eligible for participation
Program Duration	Planned month/year start to planned month/year finish
Program Description	Detailed program description
Eligible Measures	Where possible and known, the measures included in the program should be provided along with the gross annual savings (kWh)
Implementation Strategy	Describe the key elements of the program's implementation strategy including incentive strategy (rebate and incentive offerings)
Marketing Strategy	Description of the Marketing strategy including any consumer education components associated with the program (if any), and a description of the marketing and advertising materials to be used
Milestones	Key dates and activity beginning with the date of commission plan approval should be noted; i.e. vendor contract finalization and program launch dates.
EM&V Requirements	A description of how the program will be evaluated, measured, and verified by the third party contractor. This description should include a description of the type of data that will be collected and how the data will be used
Estimated Participation	A projected customer participation level should be provided for the years covered by the proposed plan's surcharge. Additional years are included at the utility's discretion
Estimated Budget	A projected budget should be provided for the years covered by the proposed plan.
Savings Targets	Projected energy savings should be provided for the years covered by the proposed plan's surcharge. Additional years are included at the utility's discretion

Attachment E

Sample Table 2: Portfolio Summary

Portfolio Category	Program	UCT Results	CCE* Results	Year 1		Year 2		Year 3 & Beyond (optional)	
				MWh Savings	Cost	MWh Savings	Cost	MWh Savings	Cost
Residential	Residential Program 1								
	Residential Program 2								
	Residential Program 3								
Commercial & Industrial (C&I) Primary	C&I Primary Program 1								
	C&I Primary Program 2								
	C&I Primary Program 3								
Commercial & Industrial (C&I) Secondary	C&I Secondary Program 1								
	C&I Secondary Program 2								
	C&I Secondary Program 3								
Portfolio-Level Costs	Program Administration								
	EM&V								
	Emerging Technology								
Education	Education Program 1								
Projected Annual Totals									

*Cost of Conserved Energy

**Sample Form 1: Energy Optimization (EO) Program
Commercial/Industrial Self-directed Application – *DRAFT only*
Plan Year 2009**

Notification deadline requirements: January 15, 2009*

Application deadline (entire form): January 30, 2009

Qualifications*: 2 MW Single site 10 MW sites aggregated (# of sites aggregated ____)

Name of business*: _____

(Use legal name of entity applying)

Mailing Address of Signatory*: _____

Business phone number*: _____ **Fax number*:** _____

Term of the Self-directed application*: _____

Estimated aggregate energy annual savings (MWh): _____

Implementation date if single site: _____

Basis for calculating savings: Weather-normalized 3-year average

Total for Year	EO multiplier (a)	Sites* Name, Service Address, and Account No. for each site (Single site 2MW or >, or 10MW or > for the aggregate of all sites)	Annual Peak Demand for each site (MW)	Annual MWh per site	Adjusted Annual MWh* per Site (adjusted for changes in business activity and weather-normalized or 3-year average) (b)	Minimum Annual Savings to Meet the EO Performance Standard* (MWh) (c) = (a) x (b)
2009	0.3% of 2007					
2010	0.5% of 2009					
2011	0.75% of 2010					
2012						
2013						
2014						

(If there are multiple sites being applied for please complete and submit the attached detailed summary document and carry annual totals forward to this summary table.)

“Site” means a contiguous site, regardless of the number of meters at a site.

Provide a summary of your EO plan:

(The plan should describe how the energy savings will be achieved to meet or exceed statutory EO standards based on electricity purchased in the previous year(s) for this application)

Applicant
Authorized Name (print): _____
Signature: _____
Title: _____
Date: _____

Provider: _____
Authorized name (print): _____
Signature: _____
Title: _____
Date: _____

Attachment E

Signature (EO Service Co.): _____

Attachment F

Case Number	Provider Name	Filing Deadline
U-15804	Alpena Power Company	February 18, 2009
U-15805	Consumers Energy Company (Electric)	February 18, 2009
U-15806	The Detroit Edison Company	March 4, 2009
U-15807	Edison Sault Electric Company	March 4, 2009
U-15808	Indiana Michigan Power Company	February 18, 2009
U-15809	Northern States Power Company-Wisconsin (Electric)	March 4, 2009
U-15810	Upper Peninsula Power Company	March 4, 2009
U-15811	Wisconsin Public Service Corporation (Electric)	March 4, 2009
U-15812	Wisconsin Electric Power Company	March 4, 2009
U-15813	Alger Delta Cooperative Electric Association	February 18, 2009
U-15814	Bayfield Electric Cooperative	February 18, 2009
U-15815	Cherryland Electric Cooperative	February 18, 2009
U-15816	Cloverland Electric Cooperative	February 18, 2009
U-15817	Great Lakes Energy Cooperative	February 18, 2009
U-15818	Midwest Energy Cooperative	February 18, 2009
U-15819	Ontonagon County Rural Electrification Association	February 18, 2009
U-15820	Presque Isle Electric and Gas Co-op	February 18, 2009
U-15821	Thumb Electric Cooperative	February 18, 2009
U-15822	Tri-County Electric Cooperative	February 18, 2009
U-15889	Consumers Energy Company (Gas)	February 18, 2009
U-15890	Michigan Consolidated Gas Company	March 4, 2009
U-15891	Michigan Gas Utilities Corporation	March 4, 2009
U-15892	Northern States Power Company – Wisconsin (Gas)	March 4, 2009
U-15893	SEMCO Energy, Inc.	March 4, 2009
U-15894	Wisconsin Public Service Corporation (Gas)	March 4, 2009

Attachment G

Case Number	Alternative Electric Supplier	Filing Deadline
U-15823	Accent Energy Midwest LLC	February 25, 2009
U-15824	American PowerNet Management, LP	February 25, 2009
U-15825	BlueStar Energy Services, Inc.	February 25, 2009
U-15826	CMS ERM Michigan LLC	February 25, 2009
U-15827	CMS Energy Resource Management	February 25, 2009
U-15828	Commerce Energy, Inc.	February 25, 2009
U-15829	Constellation NewEnergy, Inc.	February 25, 2009
U-15830	Direct Energy Services, LLC	February 25, 2009
U-15831	Exelon Energy Company	February 25, 2009
U-15832	FirstEnergy Solutions Corp.	February 25, 2009
U-15833	Integrays Energy Services, Inc.	February 25, 2009
U-15834	Liberty Power Delaware LLC	February 25, 2009
U-15835	Liberty Power Holdings LLC	February 25, 2009
U-15836	Metro Energy, LLC	February 25, 2009
U-15837	MidAmerican Energy Company	February 25, 2009
U-15838	Nordic Marketing, L.L.C.	February 25, 2009
U-15839	Nordic Marketing of Michigan, L.L.C.	February 25, 2009
U-15840	Powerone Corporation	February 25, 2009
U-15841	Premier Energy Marketing, L.L.C.	February 25, 2009
U-15842	Quest Energy, L.L.C.	February 25, 2009
U-15843	Sempra Energy Solutions LLC	February 25, 2009
U-15844	Spartan Renewable Energy, Inc.	February 25, 2009
U-15845	Direct Energy Business, LLC	February 25, 2009
U-15846	U.P. Power Marketing LLC	February 25, 2009
U-15847	Wolverine Power Marketing Cooperative, Inc.	February 25, 2009
U-15902	Royal Bank of Scotland plc	February 25, 2009