

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own)	
motion, to open a docket to implement)	
the provisions of Public Act 229 of 2023)	Case No. U-21567
and related definitions of Public Act 235)	
of 2023.)	
_____)	

At the February 8, 2024 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER

Background

Public Act 229 of 2023 (Act 229) and Public Act 235 of 2023 (Act 235), were signed by Governor Gretchen Whitmer on November 28, 2023. The effective date for Act 229 is February 13, 2024, while the effective date for Act 235 is February 27, 2024. Acts 229 and 235 amend the Clean and Renewable Energy and Energy Waste Reduction (EWR) Act, Public Act 295 of 2008 (Act 295). As enacted, Act 229 continues to require electric and natural gas providers to have approved EWR plans under MCL 460.1073, and additionally provides that current legislative incremental energy savings shall remain in effect until 2026. *See*, MCL 460.1077. Act 229 further amends plan requirements and the incentive structure authorized under Act 295.

Discussion

The Commission finds that currently approved EWR plans and financial incentive mechanisms for the program years 2024 and 2025 will remain in effect until new plans are filed and approved under Act 229. Additionally, the Commission notes that providers should continue to use the model contained in Attachment E to the December 4, 2008 temporary order, in Case No. U-15800, for future EWR plan filings.

The Commission further finds that natural gas providers regulated by the Commission will be directed to file new EWR plans *by* 2025 as directed by Act 229. The Commission will issue a subsequent order assigning docket numbers for these filings. In addition, the Commission notes that these plans will be required to follow the updated requirements under the new legislation. *See*, MCL 460.1073. Electric providers and combined electric and natural gas providers that are regulated by the Commission will also be directed to file new plans *in* 2025 as required by Act 229. The Commission will, again, issue a subsequent order assigning docket numbers. These plans will also be required to follow any updated requirements in Act 229. Once approved by the Commission, plans filed pursuant to the requirements of Act 229 will remain in effect until that electric provider receives a final order in an integrated resource plan (IRP), at which time the provider will have eight months to file an updated EWR plan. *See*, MCL 460.1073.

Efficient Electrification (EFEL) plans may also be filed with these new EWR plans under one filing called an Energy Optimization (EO) plan. *See*, MCL 460.1071(6). Certain measures could be a part of both an EFEL plan and an EWR plan. If the measure is replacing a product of the same fuel source, it will be included in the EWR plan whereas EFEL plans will only include measures that provide a switch from a fuel source other than electricity to an electric sourced measure. Section 72 of Act 229 provides the other requirements for EFEL plans, including that

EFEL plans apply only to electric providers, and that costs for an approved EFEL plan are recoverable. The Commission finds that these costs will be recovered via a separate surcharge that will be added to the applicable EWR surcharge for purposes of including it on customer bills. However, providers choosing to file an EFEL plan will be responsible for proving that the costs for the EFEL plan will not increase electric rates for customers who do not participate in an EFEL program.

The Commission further finds that EFEL plans will have similar reconciliation and annual report filing requirements as EWR plans, which will be concurrent with the EWR plan reconciliations and annual report filings under an EO reconciliation and annual report filing. A provider's EFEL plan spend will not be included in the EWR financial incentive calculation and post evaluations will be necessary to prove that customers who did not participate in the program did not realize increased electric rates as required under Act 229.

New EWR plans filed under Act 229 will have additional requirements for low-income program offerings. Specifically, Section 80(2) of Act 229 states that “[l]ow-income energy waste reduction programs shall include investments in health and safety measures appropriate and necessary to address health and safety conditions that are impediments to implementing energy waste reduction measures for low-income residential customers.” Further, funds invested in health and safety measures, for purposes of providing EWR to a structure, will generate energy savings deemed to be a proportional amount of the required energy savings for the program year during which the money is spent.

Section 80(2) of Act 229 also requires that providers “work to deliver and coordinate low-income energy waste reduction programs and other offerings that serve and maximize the benefits to low-income residential customers.” In addition, Section 80(5) of Act 229 requires that

providers “minimize barriers to participation in low-income energy waste reduction programs and reduce overly burdensome verification processes. Any of the following constitute eligible income verification: (a) Proof of participation in other low-income qualified programs. (b) Location in a low-income census tract. (c) Other methods to be determined by the commission.” In order to enhance coordination efforts and minimize barriers to participation, the Commission directs the Staff to work with utilities, other departments and agencies within state government, low-income advocacy organizations, and other interested persons to develop strategies around income verification and program coordination.

Section 80a of Act 229 sets the requirements for investment in workforce development for utilities serving more than 50,000 customers. The Commission finds that additional input is needed to evaluate how such investments in workforce development should be considered in terms of contributing to the required energy savings for the program year during which the money is spent, and is seeking comment on this issue, as noted below. The level of investment in health and safety measures and investments in workforce development should be reasonable and prudent.

The Commission finds that deemed energy savings generated from education, pilots, and health and safety programs will not be counted toward the legislatively required energy savings target but may count toward the increased energy savings goals of the legislation. Deemed energy savings may be counted and applied toward the incentive structure goals. However, deemed energy savings may not be counted toward targets established in IRP filings since they do not decrease their overall load nor have an effect on greenhouse gas reductions.

With respect to customers who are exempt from charges they would otherwise incur as an electric customer under Sections 72, 89, and 91 of Act 229, if the customer files with its provider and implements a self-directed EWR plan (self-directed customers), the Commission finds that the

Commission Staff (Staff) should work to revise the application forms to self-direct and that self-directed customers will be required to achieve the new higher standards. The Commission finds that a docket will be opened for the revision of these forms similar to Case No. U-16563. Case No. U-16563 was originally opened in 2011 and initially developed and approved instructions and forms to apply for self-direct status with a utility provider.

Section 73 of Act 229 also requires electric providers not regulated by the Commission to adopt EWR plans in 2025. The Commission finds that, once an EWR plan is approved by the governing body of the non-rate regulated electric provider, a summary of the programs and anticipated savings from those programs should be submitted to the Commission consistent with the requirements of MCL 460.1097. Subsequent achievements from each program year should also be summarized and submitted to the Commission at a date established by the Commission. This information will be used to calculate the energy savings achieved by all Michigan utility providers annually and to ensure alignment with Michigan's clean energy goals.

Section 77 of Act 229 indicates that energy savings expected must be determined utilizing a savings database or other savings measurement. The Commission finds that the Michigan Energy Measures Database (MEMD) is the most reasonable savings database and should be utilized unless custom savings are more appropriate. Custom energy savings are subject to review by the Commission.

Section 91 of Act 229 (Section 91) provides for the continuance of an alternative compliance payment to an independent EWR program administrator selected by the Commission. The Commission finds that a provider selecting to utilize the state program administrator must make a two-year commitment to the state administrator. Section 91 further provides that the Commission shall initiate a proceeding by July 1, 2024, to establish a collaborative process for adopting a

framework EWR program for those utilities electing to utilize the independent administrator known as the Efficiency United (EU) program. Costs for implementation of the EU program will be established and updated with the participating providers biennially. Municipal and cooperative electric providers will have an opportunity to elect the state administrator upon approval from their governing body with a two-year commitment.

The Commission finds that it shall accept comments regarding Act 229. More specifically, the Commission seeks comments on the following topics relating to Act 229:

- 1) Regarding EFEL plans:
 - a) What components should be included in the definition and calculation of efficient and high-efficient electrification measures?
 - b) How will total energy consumption reduction be measured as required by Act 229?
 - c) What greenhouse gas emission calculation methodologies and emission factors should be used to estimate emissions from differing electric generation sources?
 - d) Should EFEL measures be added to the MEMD?
 - e) Should the Utility System Resource Cost Test be applied to EFEL plans?
 - f) Are there other considerations for EFEL program and plan implementation?
- 2) Section 77(6) of Act 229 states that providers may allocate savings between an electric provider and a natural gas provider for measures and programs implemented. Should there be a standard allocation developed within the EO (formerly EWR) Workgroup Collaborative to provide a uniform process for all providers to comply with?
- 3) Act 229 states that cold climate heat pumps (CCHP) and ground source heat pumps (GSHP) must be qualified projects. What would *qualify* CCHP and GSHP for purposes of Act 229?
- 4) What does MCL 460.1077(6) require regarding natural gas providers' ability to claim savings from electrification measures?
- 5) How should investments in workforce development be counted toward the required energy savings for the program year? Should this be done on a deemed-savings basis, similar to investments in health and safety measures?
- 6) What effect, if any, does Section 28(7) of Act 235 have on EWR plans for 2024 through 2025?
- 7) Any other issues related to implementation of Act 229 on which interested persons may wish to comment.

Given the above, the Commission will accept comments regarding Act 229, including but not limited to the above listed topics, until 5:00 p.m. (Eastern time (ET)) on July 17, 2024, and reply comments until 5:00 p.m. (ET) on August 9, 2024. Written comments should be mailed to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909. Comments submitted in electronic format may be filed via the Commission's E-Dockets website, or for those persons without an E-Dockets account, via e-mail to mpscedockets@michigan.gov. Any person requiring assistance prior to filing comments, may contact the Staff at (517) 241-6180. All comments should be paginated and reference the above-captioned case, Case No. U-21567. All filed comments will become public information available on the Commission's website and subject to disclosure.

THEREFORE, IT IS ORDERED that:

A. The Commission Staff shall work with utilities, other departments and agencies within state government, low-income advocacy organizations, and other interested persons to develop strategies around income verification and program coordination in order to minimize barriers to participation in low-income energy waste reduction programs and reduce overly burdensome verification processes.

B. Any interested person may file comments regarding Public Act 229 of 2023, in this docket. Comments shall be filed no later than 5:00 p.m. (Eastern time) on July 17, 2024, and reply comments shall be filed no later than 5:00 p.m. (Eastern time) on August 9, 2024.

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

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of February 8, 2024.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

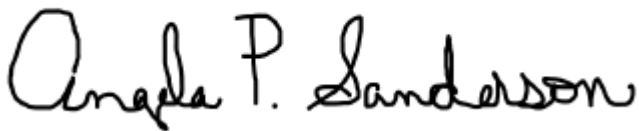
Case No. U-21567

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on February 8, 2024 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 8th day of February 2024.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

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Santana Energy

Santana Energy

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Upper Peninsula Power Company

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Village of Clinton

Volunteer Energy Services

Wabash Valley Power

Wolverine Power

Wood, Amanda

Xcel Energy

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