

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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| In the matter, on the Commission's own motion, |) | |
| to promulgate rules governing renewable energy |) | Case No. U-15900 |
| plans and energy optimization plans. |) | |
| _____ |) | |

At the April 27, 2010 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Greg R. White, Commissioner

ORDER AND NOTICE OF HEARING

On October 7, 2008, the Commission filed a request for rulemaking (RFR) with the State Office of Administrative Hearings and Rules (SOAHR) in conjunction with the promulgation of rules governing renewable energy plans and energy optimization plans. On the same date, SOAHR approved the RFR, which has been assigned the SOAHR docket number 2008-042 LG. The Commission submitted the draft rules to SOAHR and the Legislative Service Bureau (LSB) for informal approvals, which were granted on March 2, 2010 and March 29, 2010, respectively.

To provide the public with an opportunity to comment on the proposed rules, the Commission has scheduled a public hearing, which will be held at 9:00 a.m. on June 22, 2010 at the Commission offices at 6545 Mercantile Way in Lansing. Any person may attend the public hearing and may offer comments on the proposed rules. The Commission encourages interested parties to become involved in the proceedings.

In addition, any person may submit written comments regarding the proposed rules. The comments should reference Case No. U-15900, and must be received no later than 5:00 p.m. on July 14, 2010. Address mailed comments to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909. Electronic comments may be e-mailed to mpscdockets@michigan.gov, and documents, in Word or PDF format, may be attached to the e-mail. Comments may also be submitted electronically through the Commission's E-Dockets Website at: michigan.gov/mpscdockets. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. If you require assistance prior to e-filing, contact Commission Staff at (517) 241-6180 or by e-mail at mpscdockets@michigan.gov. All information submitted to the Commission in this matter will become public information available on the Commission's website and subject to disclosure; and all comments will be filed in Case No. U-15900.

THEREFORE, IT IS ORDERED that:

A. A public hearing regarding the proposed promulgation of Commission rules governing renewable energy plans and energy optimization plans shall be held at 9:00 a.m. on June 22, 2010 at the offices of the Commission, 6545 Mercantile Way, Lansing. A notice of hearing is attached to this order as Exhibit A. A copy of the proposed rulemaking is attached to this order as Exhibit B.

B. The public hearing will be legislative in nature and any person may present data, views, questions, and arguments regarding the issue. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings. If necessary, the proceeding will continue on such dates as the presiding officer may schedule until all persons have had a reasonable opportunity to be heard.

C. Any person may file written comments, suggestions, data, views, questions, argument, and modifications concerning the issue. To be considered, all comments must be received at the Commission no later than 5:00 p.m. on July 14, 2010, and should reference Case No. U-15900.

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

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Greg R. White, Commissioner

By its action of April 27, 2010.

Mary Jo Kunkle, Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

NOTICE OF HEARING
REGARDING THE PROMULGATION OF ADMINISTRATIVE RULES GOVERNING
RENEWABLE ENERGY PLANS AND ENERGY OPTIMIZATION PLANS

- The Michigan Public Service Commission is considering the adoption of rules governing renewable energy plans and energy optimization plans. The Commission will hold a public hearing to solicit comments from anyone who wishes to comment on the proposed rules. The rules are proposed to take effect immediately upon filing with the Secretary of State.
- The information below describes how a person may participate in this case.
- You may call or write the Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909, (800) 292-9555 for a free copy of the proposed rules. Any person may review the rules at the Commission offices, or on the Commission's E-Docket Website at michigan.gov/mpscedockets. The rules will be published in the May 15, 2010 Michigan Register under SOAHR #2008-042, and may also be accessed at the SOAHR website, www.michigan.gov/soahr, under "Recent and Pending Rule Changes."
- The public hearing will be held:

DATE: June 22, 2010

TIME: 9:00 a.m.

LOCATION: Michigan Public Service Commission
6545 Mercantile Way, Suite 7
Lansing, Michigan

PARTICIPATION: Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. People needing any accommodation to participate should contact the Commission's Executive Secretary at (517) 241-6160 at least a week in advance to request mobility, visual, hearing or other assistance. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone.

These proposed rules will govern the administration of renewable energy plans and energy optimization plans adopted pursuant to 2008 PA 295. The hearing will be for the purpose of providing an opportunity for all interested persons to present statements, views, data, questions, or arguments concerning the proposed rules. The public hearing will continue until all parties present

have had a reasonable opportunity to present statements regarding the proposed rules. Persons presenting statements may be asked questions by the Commission and its Staff, as well as by the presiding officer. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings.

Written and electronic comments may be filed with the Commission and must be received no later than 5:00 p.m. on July 14, 2010. Written comments should be sent to the: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909. Electronic comments may be e-mailed to mpscedockets@michigan.gov. Comments may also 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. If you require assistance prior to e-filing, contact Commission staff at (517) 241-6180 or by e-mail at mpscedockets@michigan.gov. All information submitted to the Commission in this matter will become public information available on the Commission's website and subject to disclosure. All comments should reference Case No. U-15900.

The Commission estimates that the rulemaking proceeding could take up to nine months to complete. These rules will become effective upon filing with the Secretary of State.

Jurisdiction is pursuant to 2008 PA 295, MCL 460.1001 *et seq.*; 1969 PA 306, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, 1999 AC, R 460.17101 *et seq.*

April 27, 2010
Lansing, Michigan

DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

RENEWABLE ENERGY AND ENERGY OPTIMIZATION PROGRAMS

These rules were filed with the Secretary of State on
These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45(a) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the Public Service Commission by section 191 of 2008 PA 295, MCL 460.1191.)

R 460.201, R 460.202, R 460.203, R 460.211, R 460.212, R 460.213, R 460.214, R 460.215, R 460.216, R 460.217, R 460.218, R 460.219, R 460.220, R 460.221, R 460.222, R 460.223, R 460.224, R 460.225, R 460.226, R 460.227, R 460.228, R 460.231, R 460.232, R 460.233, R 460.234, R 460.235, R 460.236, R 460.237, R 460.238, R 460.239, R 460.240, R 460.241, R 460.242, R 460.243, R 460.244, R 460.245, R 460.246, R 460.247, R 460.248, R 460.249, and R 460.250 are added to the Michigan Administrative Code as follows:

PART 1. GENERAL PROVISIONS

R 460. 201 Definitions.

Rule 1. As used in these rules:

(a) “Act” means 2008 PA 295, MCL 460.1001 to MCL 460.1195.

(b) “Annual peak demand” means integrated hourly demand as used in the customer’s demand rate schedule if available, or an annual peak demand estimated using a commission-approved method.

(c) “Complete self-directed energy optimization plan” means a plan filed by an eligible electric customer with its electric provider that is consistent with these rules and the requirements of section 93 of the act, MCL 460.1093.

(d) “Construction contract” means a contract that provides for payments for the installation of a renewable energy system, including, without limitation, the associated services for inspecting, securing, permitting (with respect to contractor permits required by state and local governments), transportation, expediting, connecting, training operators, commissioning, start-up operations, testing, construction management, and contract administration.

(e) “Eligible primary or secondary self-directed electric customer” means an electric customer in good standing with respect to bill payment that meets the eligibility requirements of section 93(2) of the act, MCL 460.1093(2), for accounts within the service territory of the provider of which a self-directed energy optimization plan is filed.

(f) “Energy optimization program administrator” or “administrator” means the qualified nonprofit organization selected by the commission to administer programs under section 91 of the act, MCL 460.1091.

(g) “Engineering contract” means a contract that provides for payments for engineering and design services for a renewable energy system.

(h) “Gross energy savings” means the change in energy consumption or demand that results directly from program related actions taken by participants in an energy efficiency program, regardless of why they participated.

(i) “Impact evaluation” means an assessment of the direct demand, energy savings, and other effects of an energy optimization program. Impact evaluations include estimation of gross energy savings, net energy savings, and co-benefits.

(j) “Market effects evaluation” means an assessment of the effects of an energy optimization program on the general market for efficiency, conservation, and load management services, including effects on likely future program elements.

(k) “Michigan energy measures database” or “MEMD” means a database developed specifically for use in Michigan, through the joint efforts of providers, the commission staff, and interested stakeholders, including intervenors to energy optimization plan and reconciliation proceedings. The purpose of the database is to catalog the gross energy savings per measure providers will use when documenting energy savings delivered by energy optimization programs in Michigan. The MEMD contains energy savings values for typical and common energy optimization equipment and processes only, and may exclude equipment or processes that are customized. The MEMD shall be periodically updated as determined appropriate by members of the joint collaborative process, or as directed by the commission.

(l) “MIRECS” means the system established by the commission under sections 41 and 43 of the act, MCL 460.1041 and MCL 460.1043, for certification and tracking of renewable energy credits and advanced cleaner energy credits, and for tracking energy optimization credits substituting for renewable energy credits as provided in section 27 of the act.

(m) “Net energy savings” means the change in energy consumption or demand, net of that which would have occurred in the absence of the energy efficiency program. Net energy savings includes the effects of free drivers, free riders, energy efficiency standards, changes in energy prices and economic conditions, and other causes.

(n) “Net to gross ratio” or “NTGR” means a factor representing the ratio of the net energy savings that are due to a program divided by the gross energy savings that are due to that same program. The NTGR is used to convert the gross program impacts into net program impacts.

(o) “Peak demand time” means the period of time between 0600 hours Eastern Standard Time (EST) through 2200 hours EST, Monday through Friday excepting New Year’s Day, 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.

(p) “Plan period” means the 20-year period beginning 90 days after the date an electricity provider’s plan is initially approved by the commission.

(q) “Process evaluation” means an assessment of overall energy optimization program design and procedures including identification of possible improvements.

(r) “Procurement contract” means a contract that provides for payments for the purchase of permanent facility materials or equipment to be used in a renewable energy system.

(s) “Retail electric sales” means, for making calculations under sections 77 and 89 of the act, MCL 460.1077 and MCL 460.1089, a provider’s retail full service electric sales plus its

retail open access sales less its wholesale sales, measured in kilowatt-hours. All figures shall be the Michigan jurisdictional component for a multistate provider.

(t) “Retail electric sales revenue” means, for making calculations under sections 77 and 89 of the act, MCL 460.1077 and MCL 460.1089, a provider’s retail full service electric sales revenue plus its retail open access sales revenue less its wholesale sales revenue. All figures shall be the Michigan jurisdictional component for a multistate provider.

(u) “Retail gas transportation revenue” means the net revenue received by a provider from the customer charges, transportation charges, and surcharges paid by gas transportation customers.

(v) “Retail natural gas sales” means, for making calculations under sections 77 and 89 of the act, MCL 460.1077 and MCL 460.1089, a provider’s retail full service gas sales plus its retail gas choice sales plus its end use transportation sales less its wholesale sales, measured in decatherms or thousand cubic feet of gas. All figures shall be the Michigan jurisdictional component for a multistate provider.

(w) “Retail natural gas sales revenue” means, for making calculations under sections 77 and 89 of the act, MCL 460.1077 and MCL 460.1089, a provider’s retail full service gas sales revenue plus its retail gas choice sales revenue plus its end use gas transportation revenue less its wholesale sales revenue. All figures shall be the Michigan jurisdictional component for a multistate provider.

(x) “Retail open access delivery revenue” means the net revenue received by a provider from the customer charges, distribution charges, and surcharges paid by retail open access customers.

(y) “Retail sales” for electric providers covered by the act is measured in megawatt-hours or kilowatt-hours and means total utility electric sales in this state, less any wholesale sales. Retail sales for utility companies does not include electric choice sales. Retail sales for alternative electric suppliers means total sales to Michigan customers served under electric choice tariffs approved by the commission or by a municipal utility board or a member-regulated cooperative utility board.

(z) “Transfer price” means the price per megawatt-hour for renewable energy and advanced cleaner energy to be recovered through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, by an electric provider whose retail rates are regulated by the commission, as established by the commission under sections 47 and 49 of the act, MCL 460.1047 and MCL 460.1049.

R 460.202 Undefined terms; meanings expressed in statute.

Rule 2. All terms used in these rules that are not defined in these rules shall have the meanings defined in sections 1 to 13 of the act, MCL 460.1001 to MCL 460.1013.

R 460.203 Waivers.

Rule 3. Upon written request of a person, provider, or on its own motion, the commission may temporarily waive any requirements of these rules when it determines the waiver will further the effective and efficient administration of these rules, will help fulfill the purpose of the act, and is in the public interest.

PART 2. RENEWABLE ENERGY PLANS AND PROGRAMS

R 460.211 Purpose.

Rule 11. Part 2 of these rules implement the renewable energy provisions of 2008 PA 295, Part 2, Subpart A, MCL 460.1021 to MCL 460.1053.

R 460.212 Applicability.

Rule 12. Part 2 of these rules applies to electric service providers and other persons subject to the act.

Rule 460.213 Filing and administration of renewable energy plans.

Rule 13. (1) A provider shall file a renewable energy plan with the commission in the manner and containing the information required by the act. Renewable energy plans filed with the commission after the effective date of these rules shall use the format established by the commission.

(2) A provider shall biennially file an application seeking commission review of the current status of an approved renewable energy plan. The time for filing shall be in accordance with the direction provided by the commission under Rule 17. In this application, the provider may seek approval of an amendment to the approved plan, and shall include the information required by section 51(2) of the act, MCL 460.1051(2). An application is not required during the period 12 months before the end of the 20-year plan period or thereafter.

(3) At any time following the initial approval of a plan by the commission a provider may file an application to amend its renewable energy plan. An application for approval of an amendment shall specify the amendment for which approval is sought, and shall provide supporting justification for the amendment. If an amendment to the initially approved renewable energy plan is approved by the commission, the commission may reset the schedule for biennial review of the renewable energy plan.

(4) Reasonable and prudent start-up costs incurred by a provider before the date of approval of the provider's plan shall be recovered under the renewable energy plan.

(5) Forecasts of costs necessary to continue compliance with the renewable energy standard to be incurred by the electric provider after the conclusion of its plan period shall be included in each plan application submitted to the commission.

(6) If an electric provider has filed with the commission or its regulatory board a long-range resource plan, then its renewable energy plan and all subsequent plan review applications shall clearly state the extent to which its renewable energy plan is consistent with its most recently filed long-range resource plan and explain any significant deviations between the 2 plans.

Rule 460.214 Commission approval of renewable energy plans.

Rule 14. (1) In determining the reasonableness and prudence of a provider's renewable energy plan, the commission may consider all of the following:

- (a) Cost and benefit analyses.
- (b) Whether a provider's renewable energy plan is consistent with the provider's most recently filed long-range resource plan.
- (c) Other justifications for specific resources included in a proposed renewable energy plan.

(2) A long-range resource plan shall contain sufficient detail for the commission to determine the effect of the provider's renewable energy plan on the need for constructing any new non-renewable electric generating facilities.

(3) A provider with less than 1,000,000 customers may meet its long-term resource plan requirements by filing a long-term resource plan that aggregates supply and demand data and plans for multiple providers.

(4) If a utility regulated by the commission has not filed a long-range resource plan within 3 years, then the commission may require the utility to file a long-range resource plan.

Rule 460.215 Filing of renewable energy plan annual reports.

Rule 15. A provider shall file an annual report containing the information required by section 51(2) of the act, MCL 460.1051(2). A report shall be in a format specified by the commission and shall be filed at the later of June 30 or concurrent with the annual reconciliation filing after the end of each calendar year.

Rule 460.216 Filing of renewable cost reconciliation proceedings.

Rule 16. (1) A provider shall annually file an application for a renewable cost reconciliation proceeding under section 49 of the act, MCL 460.1049. The time for such filing shall be provided by the commission under Rule 17. A renewable cost reconciliation proceeding filing may be made with the biennial review application provided for in these rules. In filing a renewable cost reconciliation proceeding, the provider shall include all of the following information:

- (a) Any proposed modifications to the revenue recovery mechanism.
- (b) An accounting of the revenues recorded under the revenue recovery mechanism.
- (c) An accounting of the amounts actually expensed versus previously projected expenses for the reporting period.
- (d) An accounting for the reporting period of all renewable energy credits, advanced cleaner energy credits, and energy optimization credits, if any, retired to comply with the provider's renewable energy standard.
- (e) The total amount paid for renewable energy and advanced cleaner energy, and the amount of renewable energy and advanced cleaner energy generated by or delivered to the provider during the reporting period.
- (f) The portion of the total amount paid for renewable energy and advanced cleaner energy, if any, recovered through a provider's power supply cost recovery process.
- (g) Interest accrued during the reporting period for any regulatory liability recorded during each month of the reporting period.
- (h) Any other information required by direction from the commission.

(2) A provider may consolidate its renewable cost reconciliation with its power supply cost recovery reconciliation proceeding for the same reconciliation period.

R 460.217 Schedule of filings.

Rule 17. (1) To avoid docket congestion and the potential for disproportionate staff and intervenor workloads due to other pending or proposed cases, the director of regulatory affairs at the commission shall, in consultation with the staff designated by the commission, develop a staggered schedule for the renewable energy plan review and reconciliation filings. The director of regulatory affairs shall provide a schedule to each provider at least 6 months

before the provider's scheduled prehearing date. A provider shall not be required to file its renewable cost reconciliation filing earlier than 150 days after the end of the reconciliation period.

R 460.218 Renewable energy capacity portfolio.

Rule 18. In calculating an electric provider's renewable energy capacity portfolio, an electric provider shall count the nameplate capacity in megawatts of the renewable energy systems associated with the provider's renewable energy contracts that were not in effect before October 6, 2008.

R 460.219 Incentive renewable energy credits.

Rule 19. (1) For renewable energy systems with a commercial operation date on or after October 6, 2008 that are constructed using equipment made in this state, the following shall apply for determining the amount of incentive renewable energy credits to be granted by section 39(2)(d) of the act, MCL 460.1039(2)(d):

(a) The percentage of Michigan-made equipment shall be calculated by dividing the U.S. dollar cost of all equipment and materials manufactured or assembled in this state by the total U.S. dollar cost of all equipment and materials used to construct the renewable energy system.

(b) The number of incentive renewable energy credits granted to the owner of the renewable energy system shall be determined by multiplying the percentage calculated in subdivision (a) of this subrule by the result of 1/10 multiplied by the number of megawatt-hours produced by the renewable energy system.

(c) One hundred percent of the possible Michigan manufacturing incentive renewable energy credits shall be granted to the owner of the renewable energy system if the percentage calculated in subdivision (a) of this subrule equals or exceeds 50%.

(2) 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 renewable energy credits to be granted by section 39(2)(e) of the act, MCL 460.1039(2)(e):

(a) The percentage of 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.

(b) The number of incentive renewable energy credits granted to the owner of the renewable energy system shall be determined by multiplying the percentage calculated in subdivision (a) of this subrule by the result of 1/10 multiplied by the number of megawatt-hours produced by the renewable energy system.

(c) One hundred percent of the possible Michigan workforce incentive renewable energy credits shall be granted to the owner of the renewable energy system if the percentage calculated in subdivision (a) of this subrule equals or exceeds any of the following:

(i) Sixty percent for renewable energy systems with a commercial operation date from October 6, 2008 to December 31, 2012.

(ii) Sixty-five percent for renewable energy systems with a commercial operation date from January 1, 2013 to December 31, 2014.

(iii) Seventy percent for renewable energy systems with a commercial operation date on January 1, 2015 and thereafter.

(3) Under section 39(2)(c) of the act, MCL 460.1039(2)(c), the basis for calculating the amount of Michigan incentive renewable energy credits earned by an advanced electric storage technology or hydroelectric pumped storage facility is the qualifying renewable energy certified under the act generated during the off-peak period and used to charge the advanced electric storage technology, or fill the hydroelectric pumped storage facility on an hourly basis, which is then used to generate electricity during an on-peak hour. The determination of this value for each off-peak hour shall be the lesser of the following:

(a) The sum of the net renewable energy generated during each off-peak hour.

(b) The energy used to charge the advanced electric storage technology or fill the hydroelectric pumped storage facility during each off-peak hour.

R 460.220 Schedule of transfer prices.

Rule 20. (1) A renewable energy plan shall include a schedule of transfer prices for the 20-year plan period. A provider may seek approval of a modification to the schedule of transfer prices.

(2) The schedule of transfer prices may reflect either of the following:

(a) Separate calculations for differing renewable technologies to reflect availability and the value of capacity.

(b) Adjustments by an hourly distribution curve to yield an hourly price per megawatt-hour for each hour of the year.

(3) All power purchase agreements, engineering, procurement and construction contracts associated with a provider-owned renewable energy system, and contracts under which a provider acquires a renewable energy system that has been developed by a third party or parties, that have been reviewed and approved by the commission under these rules shall have a transfer price established as a floor price for the life of the contract or associated renewable energy system at the time of contract approval. With respect to engineering, procurement or construction contracts associated with a specific provider-owned renewable energy system, the transfer price shall be the same for all such contracts associated with that specific provider-owned renewable energy system.

(4) At the time a contract specified in subrule (3) of this rule is approved by the commission, the most recently approved schedule of transfer prices shall be established as the floor price for purposes of determining cost recovery through the power supply cost recovery process conducted under MCL 460.6j. If a modification in the schedule of transfer prices is subsequently approved that reflects transfer prices higher than the floor price previously established for a particular contract, then the most recently approved transfer price shall be used for power supply cost recovery purposes.

(5) Notwithstanding the provisions in subrule (4) of this rule, for purposes of determining cost recovery in a power supply cost recovery proceeding, the transfer price associated with a power purchase agreement shall not be greater than the actual annual weighted average total contract price per unit of output for the contract year that is payable under the contract.

R 460.221 Renewable energy contracts.

Rule 21. (1) The commission shall review renewable energy contracts or contracts for the purchase of renewable energy credits without the associated renewable energy under section 37 of the act, MCL 460.1037, on an expedited basis.

(2) Applications seeking approval of renewable energy contracts may be filed by the provider at the provider's discretion, in a commission docket separate from other renewable energy plan dockets.

(3) Applications seeking approval of renewable energy contracts shall include the most recently approved schedule of forecasted transfer prices for the applicant. Approval of such contracts shall establish the most recently approved schedule of forecasted transfer prices as the schedule of minimum forecasted transfer prices applicable to the approved contract.

R 460.222 Engineering, procurement, and construction contracts for provider-owned renewable energy systems.

Rule 22. (1) The Commission shall review and approve engineering, procurement, and construction contracts for provider-owned renewable energy systems under section 33 of the act, MCL 460.1033, on an expedited basis.

(2) The provider may file applications seeking approval of engineering, procurement, and construction contracts at the provider's discretion, in a commission docket separate from other renewable energy plan dockets.

(3) The first application seeking approval of engineering, procurement, and construction contracts for a provider-owned renewable energy system shall include the most recently approved schedule of forecasted transfer prices for the applicant. Approval of the first contract for a provider-owned renewable energy system shall establish the most recently approved schedule of forecasted transfer prices as the schedule of minimum forecasted transfer prices applicable to the renewable energy system.

(4) Contracts for provider-owned renewable energy systems are not subject to commission approval or to the competitive bidding process guidelines adopted under the act if they relate to any of the following:

- (a) Land acquisition.
- (b) Project developmental studies, including environmental and wildlife impacts studies.
- (c) Operation and maintenance following commercial operation.
- (d) Consulting services.
- (e) Renewable energy credit transactions from established markets or auctions.
- (f) Interconnection agreements.
- (g) Contracts for acquisition of non-generating equipment traditionally purchased by providers in the normal course of business.

(h) Engineering, procurement, or construction contracts that provide for total contract payments of \$2 million or less.

(5) Engineering, procurement, and construction contracts are not subject to the competitive bidding guidelines adopted under the act.

R 460.223 Renewable energy credits for small generators.

Rule 23. MIRECS shall provide for all of the following:

(a) Certification and tracking of credits generated by small producers of renewable energy or advanced cleaner energy whose generation is not registered with the applicable electric transmission system operator.

(b) Certification and tracking of credits generated by small producers of renewable energy or advanced cleaner energy whose generation data is not reported to MIRECS by the applicable electric transmission system operator.

(c) Reporting and aggregation by an electric provider for generation participating in a provider's net metering program.

(d) Reporting and aggregation by an electric provider or any other party with a valid account on the MIRECS system suitable for this purpose for generation that is metered using utility quality meters.

(e) For any generation that is not metered using utility quality meters, MIRECS shall provide for reporting and aggregation using a commission approved process for metering or standardized engineering calculations for determining system output.

(f) Account for the aggregation and awarding of the renewable energy credits and advanced cleaner energy credits generated through pilot programs within an electric provider's approved renewable energy plan and by renewable energy systems not registered with or reporting output through the applicable electric transmission system operator.

Rule 460.224 Retirement of renewable energy credits.

Rule 24. (1) MIRECS shall allow providers to retire energy credits for the compliance year in which they expire.

(2) The MIRECS system shall be designed so that providers are able to match actual monthly retail sales with monthly credit retirements.

(3) To the extent possible, energy credits shall be retired on a monthly basis.

(4) Energy credits shall not be available for compliance retirement for any month later than 36 months after the month in which the credits were generated.

R 460.225 Renewable energy credits from generators using both renewable and non-renewable fuels.

Rule 25. (1) MIRECS shall provide for the certification and tracking of renewable energy credits generated by a facility that utilizes both qualifying renewable resources and non-qualifying resources to produce electricity.

(2) Renewable energy credits generated by an electric generating facility that utilizes both qualifying renewable resources and non-qualifying resources shall be based on the total gross electric generation in megawatt-hours associated with the qualifying renewable resource.

(3) A renewable energy generator using biomass fuel shall provide an affidavit to the commission by October 1 of each year specifying either of the following:

(a) That its fuel mix is entirely from qualifying renewable energy resources.

(b) That its fuel mix is not entirely from qualifying renewable energy resources.

(4) A renewable energy generator using qualifying biomass renewable resources in conjunction with any non-qualifying resource shall provide an affidavit to the commission by October 1 of each year that identifies the percentage of its fuel mix that is produced by qualifying renewable resources.

(5) A renewable energy generator using both a qualifying renewable energy resource and any non-qualifying resource shall apply to the commission for approval of the method to be used to calculate accurately the quantity of generation for Rule 28(2) of these rules.

(6) Where possible, the calculation required for Rule 28(4) of these rules shall be based on an accurate accounting of the heat input measured in British thermal units per hour for all qualifying renewable resources used by the generator to produce electricity during each reporting period.

R 460.226 Billing statements; charges for the recovery of incremental cost of compliance.

Rule 26. (1) In its billing statements to its residential customers, each electric provider shall provide the estimated monthly amount, expressed in dollars and cents, of the long-term, life-cycle costs of building and operating new conventional coal-fired electric generating power plants avoided by an average residential customer in this state as determined by the commission.

(2) The information required to be placed on residential customers' bills by subrule (1) of this rule shall be displayed in a format consistent with other information on the customers' bills.

(3) To mitigate burdensome customer rate effects, the commission may approve graduated monthly surcharges within a rate or customer class to collect the incremental cost of compliance; provided, such surcharges not exceed the rate caps specified in the act.

(4) All retail customers, including unmetered customers, unless otherwise specifically excluded by the act, shall be responsible for paying renewable energy plan surcharges.

R 460.227 Procurement of renewable energy credits.

Rule 27. (1) Renewable energy credits or advanced cleaner energy credits purchased on a spot market, exchange, or under an auction process and which are not generated from renewable energy systems or advanced cleaner energy systems owned by the electric provider or its affiliate shall not be counted towards the electric provider's maximum 50% limit specified in section 33(1)(a) of the act, MCL 460.33(1)(a).

(2) Renewable energy systems may be developed by 1 or more third parties under a contract with an electric provider whereby the renewable energy system is jointly owned by the electric provider and 1 or more third parties. For such projects that are competitively bid using a bidding system that meets the commission guidelines in Rule 28 of these rules, the resulting contracts shall be approved by the commission, similar to provider-owned projects under section 33(1)(a) of the act, MCL 460.33(1)(a).

(3) A contract resulting from a competitive bidding process and approved by the commission may include a purchase power agreement between the provider and the third-party joint owner for the output of the portion of the jointly owned project that is owned by the third-party joint owner.

(4) A power purchase agreement described in subrule (3) of this rule shall be exempt from a separate request for proposals bidding process.

(5) An electric provider shall count the total renewable energy credits attributable to such a renewable energy system toward its 50% limit under section 33(1)(a) of the act, MCL 460.33(1)(a), in proportion to the electric provider's ownership percentage in the jointly owned renewable energy system. The renewable energy credits received by an electric

provider under a power purchase contract associated with the jointly owned project shall be applied toward the requirement in section 33(1)(b) of the act, MCL 460.33(1)(b).

(6) If a separate agreement between a qualifying small power production facility and a third party that was in effect on January 1, 2008 provides for the transfer of ownership of the renewable attributes of the generated electricity from the qualified small power production facility to the third party, the separate agreement shall govern until the earlier of January 1, 2013 or the expiration of the separate agreement. To the extent the renewable attributes to be transferred to the third party under the separate agreement exceed the amount of renewable energy credits available to the qualified small power production facility under R 460.228(2)(a), the amount of renewable energy credits to be transferred to the electric provider shall be reduced by such excess amount.

Rule 460.228 Competitive bidding procedures for major electric utilities.

Rule 28. (1) Each electric utility having 1,000,000 or more customers in this state on January 1, 2008 shall do all of the following:

- (a) Identify qualified potential suppliers.
- (b) Maintain a list of qualified potential supplier with current contract information.
- (c) Provide all potential suppliers with an opportunity to request addition to its list of qualified suppliers.

(d) Adhere to the provisions in subrules (2) to (22) of this rule.

(2) A provider may limit a potential supplier's participation in solicitations based on the following parameters:

- (a) Credit worthiness.
- (b) Experience in providing products and services.
- (c) Past performance.
- (d) Ability to deliver.
- (e) Compliance with federal, state, and local laws.

(3) Each electric provider shall treat both affiliates and non-affiliates in a fair and nondiscriminatory manner in any solicitations open to all suppliers.

(4) In qualifying an affiliate, the electric provider shall consider the affiliate's qualifications without any reliance on the credit worthiness, experience, or past performance of the provider.

(5) Each provider shall, to the extent commercially practical, solicit qualified renewable or advanced cleaner energy resources using a written request for proposal issued to qualified potential suppliers.

(6) The request for proposal shall include the following elements:

- (a) Description of need, including all of the following:
 - (i) Description of products or services solicited.
 - (ii) Type of renewable resource.
 - (iii) Amount of the renewable resource sought.
 - (iv) Length of the contract term.
 - (v) Background information.
 - (vi) Location preferences.
 - (vii) Regulatory context.
- (b) Schedule defining all of the following:
 - (i) Request for proposals 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) At the option of the provider, a notice of intent to bid process designed by the provider to facilitate both of the following:
 - (i) The orderly evaluation of responding proposals.
 - (ii) Communications regarding any clarifications to the request for proposals.
- (d) At the option of the provider, the details of a pre-bid conference between the provider and all qualified potential suppliers that filed a notice of intent to bid.
- (7) Upon request, a provider shall make both of the following items available to all bidders:
 - (a) Any materials presented at a pre-bid conference.
 - (b) The record of all questions asked and the responses given to all questions asked at the pre-bid conference.
- (8) The provider shall take reasonable measures to prevent the disclosure of confidential and proprietary information contained in proposals provided by qualified potential suppliers.
- (9) The provider may require qualified potential suppliers responding to the request for proposals to provide a reasonable nonrefundable bidding fee with each proposal to help defray the cost of evaluating the bids.
- (10) The provider may require that proposals be organized in a manner that facilitates efficient evaluation of proposals.
- (11) The provider may require proposals to address the status of arrangements to provide reliable delivery of the products and services, including all of the following:
 - (a) 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.
 - (b) Electrical system studies.
 - (c) Studies or reports regarding any of the following items:
 - (i) Wildlife.
 - (ii) Avian migration.
 - (iii) Habitats.
 - (iv) Endangered species.
 - (v) Bats.
 - (vi) Wetlands.
 - (vii) Contamination.
 - (viii) Radar.
 - (ix) Microwave.
 - (x) Federal and state aviation height restrictions.
 - (d) Wind performance and fuel supply forecast.
 - (e) Evidence that the generating facility qualifies as a renewable energy system.
 - (f) Building permits.
 - (g) Contracts for construction.
 - (h) Equipment supply agreements.
 - (i) A completion schedule.

(12) The provider may require that proposals are valid for a period sufficient to allow for all of the following:

- (a) A proposal evaluation by the provider.
- (b) An audit by the commission staff.
- (c) Review of bids selected.
- (d) Contract execution.
- (e) Commission review and approval of any resulting contract.

(13) A provider shall develop a bid evaluation methodology in consultation with the commission staff to evaluate proposals received.

(14) A provider shall provide essential evaluation criteria to all suppliers providing notice of intent to bid.

(15) In its solicitation, a provider shall describe the evaluation criteria.

(16) The bid evaluation process may include an assessment of both price and non-price factors.

(17) For bids that do not require transfer of ownership of the applicable renewable energy system to the provider, the provider shall employ evaluation methods designed to result in a determination of the least price conforming bid from a qualified bidder.

(18) The provider may weigh non-price items and assign a corresponding bid price credit or bid price debit or use any reasonable ranking method of the provider's choosing to address the differences between and of the following:

(a) Bids associated with the progress of developing a renewable energy system to supply the products or services to the provider.

(b) The proposed schedule for completing the renewable energy system to supply the products or services to the provider.

(c) The reliability of equipment.

(d) Other matters relating to the likely success of the proposal in providing the products or services to the provider.

(19) If the least cost conforming bid from a qualified bidder is of a quantity or size that exceeds the provider's requirements, the provider may negotiate with the bidder so as to obtain the provider's desired products or services.

(20) A provider shall maintain a copy of all of the following materials:

(a) The request for proposals.

(b) Proposals submitted in response to the request for proposals.

(c) 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.

(21) For 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 all of the following:

(a) Proposals submitted by the potential suppliers.

(b) Internal evaluative documentation.

(c) Any other information related to the bidding process.

(22) An electric provider may consider unsolicited proposals provided to it outside of a competitive bidding process from affiliates, consistent with the code of conduct established by the commission under MCL 460.10a(4) and from non-affiliates, that provide opportunities that may not otherwise be available and commercially practical.

PART 3. ENERGY OPTIMIZATION PLANS AND PROGRAMS

R 460.231 Purpose.

Rule 31. These rules implement the energy optimization provisions of 2008 PA 295, Part 2, Subpart B, MCL 460.1071 to MCL 460.1097.

R 460.232 Applicability.

Rule 32. (1) These rules apply to electric and gas service providers and other persons subject to the requirements for energy optimization under the act.

(2) For all contracts with a state selected energy optimization program administrator entered into after the effective date of these rules, the rules will take precedence in matters where the contract conflicts with the rules.

Rule 460.233 Requirements for gas and electric energy optimization plans.

Rule 33 (1) A provider shall file an energy optimization plan with the commission in the manner and containing the information required by Subpart B of 2008 PA 295, MCL 460.1071 to MCL 460.1097. Energy optimization plans filed with the commission after the effective date of these rules shall use the format provided in Appendix A to these rules.

(2) The energy optimization plan shall 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 shall include any strategies employed to maximize spillover effects and to minimize free-riders. Additionally, the provider shall 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.

(3) Energy optimization plans shall include a request for proposal process for obtaining independent expert evaluation of the energy optimization programs, including verification of the incremental energy savings to determine compliance with the act. All such program evaluation is subject to commission oversight, including, if necessary, the obtaining of an independent expert consultant by the commission staff with the cost borne by energy optimization providers.

(4) Providers shall coordinate and harmonize their energy optimization planning and programs where doing so will reduce costs or increase program performance. This coordination will take place in a statewide collaborative that includes interested stakeholders and meets regularly for design, planning, implementation, and evaluation of programs.

(5) Program expenditures for educational programs may be considered costs of the energy optimization plan, and are subject to the 3% limit in section 71(5) of the act, MCL 460.1071(5). Program expenditures for educational programs may be deemed to generate a proportional amount of the required energy savings for the applicable year in which expenditures occur, up to the statutory limit.

(6) Expenditures for pilot programs may be considered costs of the energy optimization plan and shall not exceed 5% of the costs of implementing the energy optimization plan. Expenditures for pilot programs, subject to the 5% limit, may be deemed to generate a proportional amount of the required energy savings for the applicable year in which the expenditures occur.

(7) Annual plan expenditures budgeted for specific program elements within a customer class may be reallocated to other program elements within the same class if the change is reasonable and cost effective. The total reallocations within a class during a calendar year shall not exceed 20% of the annual budgeted expenditures for that class.

(8) Energy optimization plans shall not include fuel substitution programs such as ground water or air to air heat pumps, unless the commission has made a specific determination in a generic proceeding allowing for public comments that it is in the public interest to include such programs in energy optimization plans.

(9) A self-directed energy optimization plan filed with providers who are implementing their own energy optimization plan shall be incorporated into the relevant electric provider's energy optimization plan.

Rule 460.234 Energy optimization plan filings for rate regulated providers; amendments.

Rule 34. (1) Every 2 years after initial approval of a plan, the commission shall review the energy optimization plan in a contested case proceeding. In so doing, the commission may do either of the following:

(a) Issue a filing schedule for rate regulated providers allowing for staggered filing dates.

(b) Join the annual energy optimization cost reconciliation for that year with the overall plan review in the same contested case hearing.

(2) If a provider proposes to amend its plan at a time other than during the biennial review process, the provider shall file the proposed amendment with the commission.

(3) If a proposed amendment modifies the revenue recovery mechanism, the commission shall conduct a contested case hearing on the amendment.

(4) The annual energy optimization cost reconciliation may be joined with the plan amendment in the same contested case proceeding.

(5) After the hearing and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and the proposed amendment or amendments to the plan.

(6) If the commission rejects a proposed plan or amendment under this rule, the commission shall explain in writing the reasons for its determination. If the commission has rejected the plan, the provider shall file a new or revised plan within 60 days of the commission order rejecting the plan.

Rule 460.235 Energy optimization plan filings for member-regulated electric cooperatives.

Rule 35. (1) Every 2 years after initial approval of a plan, the commission shall review the plan. Both of the following apply to the approval of the plan:

(a) The commission shall provide an opportunity for public comment on the plan.

(b) After the opportunity for public comment, the commission shall approve, with any changes consented to by the providers, or reject any proposed amendments to the plan.

(2) If a provider proposes to amend its plan at a time other than during the biennial review process, the provider shall file the proposed amendment with the commission. Both of the following apply to the amendment to the plan:

(a) The commission shall provide an opportunity for public comment on the amendment.

(b) After the opportunity for public comment and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the amendment.

(3) If the commission rejects a proposed plan or amendment under this rule, the commission shall explain in writing the reasons for its determination. If the commission has rejected the plan, the provider shall file a new or revised plan within 60 days of the commission order rejecting the plan.

Rule 460.236 Energy optimization plan filings for municipally-owned electric utilities.

Rule 36. (1) Every 2 years after the commission initially determines that an energy optimization plan complies with the act, the commission shall review the plan. All of the following apply:

(a) The commission shall provide an opportunity for public comment on the plan, if the governing body of the provider has not already provided an opportunity for public comment and filed the comments with the commission.

(b) After the applicable opportunity for public comment and within 90 days after the amendment is filed, the commission shall determine whether any amendment to the plan proposed by the provider complies with this act.

(c) The proposed amendment is adopted if the commission determines that it complies with the act.

(2) If a provider proposes to amend its energy optimization plan at a time other than during the biennial review process the provider shall file the proposed amendment with the commission. All of the following apply to adoption of the proposed amendment:

(a) The commission shall provide an opportunity for public comments on the amendment.

(b) After the applicable opportunity for public comment and within 90 days after the amendment is filed, the commission shall determine whether the proposed amendment to the plan complies with this act.

(c) The proposed amendment is adopted if the commission determines that it complies with the act.

(3) If the commission determines that a proposed plan or amendment under this rule does not comply with the act, the commission shall explain in writing the reasons for its determination. If the commission has rejected the plan, the provider shall file a new or revised plan within 60 days of the commission order finding noncompliance.

Rule 460.237 Proration of targets for retail open access or end user transportation effects.

Rule 37. A provider may apply to the commission to adjust the incremental energy savings target associated with retail open access or end use transportation customers to reflect the reduced levels of revenues from such customers as compared with full service sales customers.

Rule 460.238 Energy optimization plan approval by commission.

Rule 38. (1) An energy optimization plan shall not be approved or determined in compliance with the act if the entire portfolio's utility system resource cost test is less than or equal to 1.0. Additionally, an energy optimization plan shall not be approved or determined to be in compliance with the act unless the plan is reasonable and prudent. An overall utility system resource cost test greater than 1.0 does not in and of itself render a provider's plan reasonable and prudent.

(2) In determining the reasonableness and prudence of a provider's overall energy optimization plan, the commission may consider all of the following:

(a) Multiple cost and benefit analysis and other economic justification for specific programs and measures included in a proposed energy optimization plan. Examples of appropriate standards include all of the following:

- (i) A total resource cost test.
- (ii) A participant cost test.
- (iii) A ratepayer impact test.

(b) Whether an electric provider's energy optimization plan is consistent with the provider's long-range resource plan. If a regulated electric provider has not filed plan with the commission within the past 3 years, the commission may require the filing of an updated long-range resource plan. A long-range resource plan shall contain sufficient detail for the commission to determine the effect of the energy optimization plan on the need for constructing new electric generating facilities, and it shall be consistent with the commission's most recently approved integrated resource plan filing guidelines to the extent practicable as deemed appropriate by the commission. Providers with less than 1,000,000 customers in Michigan may meet this subrule's requirements with a joint filing of a limited long-term resource plan as deemed appropriate by commission staff. If an electric provider has filed with the commission or its regulatory board a long-range resource plan, then its energy optimization plan review application shall clearly state the extent to which the 2 plans are consistent and explain discrepancies between the 2 plans.

(3) In determining that a provider's energy optimization programs, excluding program offerings to low income customers, will collectively be cost effective, the commission shall use the utility system resource cost test, but may in addition use the total resource cost test if the 90% confidence interval of the estimated utility system resource cost test includes a computation of 1.25 or less, or, if in the commission's judgment, it believes that the program is marginally economic. The total resource cost test shall include customer contributions toward energy efficiency measures.

(4) A provider's energy optimization plan shall include a projected avoided cost of energy to be used in computing the utility system resource cost test and other benefit and cost analysis. In its plan filing, a provider shall provide a full explanation of how its avoided cost calculation was performed and include all underlying assumptions used in the calculation including the determination of capacity and energy components.

Rule 460.239 Energy optimization plan; financial incentive mechanism for rate regulated providers.

Rule 39. A financial incentive mechanism under this rule is not an element of the energy optimization plan components described in section 71 of the act. Therefore, the commission may approve or reject the financial incentive mechanism.

Rule 460.240 Recovery of costs; funding level for low income residential programs; spending caps.

Rule 40. The established funding level for low income residential programs shall be provided from each customer rate class, including self-directed customers, regardless of whether their electric provider's energy optimization programs are administered by the provider or an independent energy optimization program administrator under section 91 of the act, MCL 460.1091, in proportion to that customer rate class' funding of the provider's total energy optimization programs. Charges shall be applied to distribution customers

regardless of the source of their electricity or natural gas supply. The low income surcharge for self-directed customers may be established using a retail revenue allocator if a significant portion of the rate class that includes self-directed customers has opted to self-direct.

Rule 460.241 Energy optimization credits for gas providers.

Rule 41. (1) One natural gas energy optimization credit shall be granted to a gas provider for each decatherm or thousand cubic feet equivalent of annual incremental energy savings achieved through energy optimization.

(2) Natural gas energy optimization credits may not be traded, sold, or otherwise transferred to another entity unless approved by the commission.

(3) Natural gas energy optimization credits cannot be substituted for renewable energy credits as described in section 27 of the act, MCL 460.1027, nor substituted for electric energy optimization credits.

(4) A natural gas energy optimization credit expires when used by a provider to comply with its energy optimization performance standard, or as provided in this rule.

(5) If a provider's incremental natural gas energy savings in any year exceeds the applicable natural gas energy optimization standard, the associated natural gas energy optimization credits may be carried forward by the provider and applied to the next year's energy optimization standard. However, both of the following apply:

(a) The number of natural gas energy optimization credits carried forward shall not exceed one-third of the next year's standard. Any natural gas energy optimization credits carried forward to the next year shall expire that year. Any remaining natural gas energy optimization credits shall expire at the end of the year in which the incremental natural gas energy savings were achieved.

(b) Natural gas energy optimization credits shall not be carried forward if the provider accepts a financial incentive for its performance during the same year. In such case, the excess natural gas energy optimization credits shall expire at the end of the year in which the incremental natural gas energy savings were achieved.

Rule 460.242 Transfers of energy optimization credits.

Rule 42. The prohibition against transfers of energy optimization credits in section 85(1) of the act, MCL 460.1085(1), and Rule 41 of these rules applies to trades, sales, or any other type of transfer to another entity unless otherwise approved by the commission. A transfer between an electric and gas company of a combination utility is prohibited.

Rule 460.243 Certification and tracking program for energy optimization credits.

Rule 43. (1) Before the development of a program providing for the transferability of energy optimization credits under section 85(2) of the act, MCL 460.1085(2), the commission shall direct providers, and the administrator on behalf of its participating providers, to track and certify, through a third-party evaluation contractor, the energy optimization credits claimed in a provider's annual reconciliation filing.

(2) The commission shall provide statewide summary information related to energy optimization credits generated by providers and self-directed customers, energy optimization credits substituted for renewable energy credits, and excess energy optimization credits carried forward by providers.

(3) Upon the development of a program for the transferability of energy optimization credits, the commission shall establish an energy optimization credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding.

Rule 460.244 Energy optimization program administrator.

Rule 44. (1) The energy optimization program administrator shall design, implement, and administer the energy optimization plans for providers that elect to make the alternative compliance payment described in section 91 of the act, MCL 460.1091. The administrator shall comply with the provisions of these rules and the act, subject to the terms and conditions of its contract with the state of Michigan.

(2) An alternative compliance payment under subrule (1) of this rule shall be used to fund energy optimization programs across all classes of customers of the providers that have chosen alternative compliance. To the extent feasible, energy optimization charges collected from a particular customer rate class and paid to the energy optimization program administrator under subrule (1) of this rule shall be devoted to energy optimization programs and services for that rate class in each provider's service territory.

(3) Participating providers shall cooperate with the administrator to facilitate the objectives of the act.

(4) The administrator shall file an annual report in compliance with section 97 of the act, MCL 460.1097. The annual report shall include all of the following information, by provider and statewide total:

- (a) Revenues: alternative compliance payments received.
- (b) Program expenditures by program made in the past year.
- (c) Excess revenues carried forward to be spent in the subsequent year.
- (d) The number of energy optimization credits generated during the reporting period.
- (e) Impact evaluation results including an estimate of gross savings, net savings, and related positive and negative effects.
- (f) Third-party verified incremental energy savings resulting from the annual impact evaluation shall be used to determine compliance with contractual energy optimization performance standards.

(g) Any other information that the commission determines necessary.

(5) Within 45 days of the end of each quarter, the administrator shall submit year-to-date interim annual reports containing the information described in subrule (4) of this rule.

(6) The administrator shall submit annual reports described in subrule (4) of this rule within 90 days of the end of each calendar year.

(7) The commission shall oversee the administrator in the performance of its contract.

Rule 460.245 Electric customer self-directed energy optimization plans.

Rule 45. (1) In addition to the eligibility requirements for exemption under section 93(1) of the act, MCL 460.1093(1), as described in section 93(2) of the act, MCL 460.1093(2), the following additional requirements apply:

- (a) To verify eligibility requirements in this subrule, customer accounts must be on a demand rate or the provider must have a commission-approved method to estimate customer annual-peak demand.

(b) Customers must be in good standing with respect to bill payment to participate in the self-direct program.

(2) Within 90 days of the effective date of these rules, each electric provider shall file with the commission for approval of a proposed self-directed energy optimization plan application form for use by eligible electric customers under section 93 of the act, MCL 460.1093. Two or more electric providers may file a joint application for use by the joint applicants.

(3) Eligible primary or secondary electric customers shall file completed self-directed plans with the electric provider using the forms approved by the commission under these rules. All of the following apply:

(a) A self-directed energy optimization plan shall be a multi-year plan, covering 2 or more calendar years.

(b) The plan shall provide for aggregate energy savings for each year that meet or exceed the statutory standards based on electricity purchased for the previous year or years at the site or sites covered by the plan.

(c) The plan must be signed by an official of the customer having knowledge of the plan content and responsibility for its implementation and administration attesting that the information provided is true and accurate to the best of his or her knowledge.

(4) Irrespective of whether or not a provider has elected to pay alternative compliance payments, all electric providers are responsible for all of the following items:

(a) Filing self-directed customer plan forms.

(b) Filing self-directed plan review and approval forms.

(c) Processing biennial self-directed reports required by section 93(8) of the act, MCL 460.1093(8).

(d) The annual report to the commission required by section 93(9) of the act, MCL 460.1093(9).

(e) The evaluation requirements in Rule 46(2)(h) of these rules.

(5) An eligible primary or secondary self-directed electric customer may count annual savings from energy efficiency projects installed in years 2007, 2008, and 2009 towards its 2009 savings goal. Annual savings from projects installed in 2007 must be prorated by multiplying the annual savings by the number of months in the year before installation divided by 12. Excess savings from the current year may be carried forward a maximum of 1 year in an amount not to exceed 1/3 of the next year's minimum energy optimization standard.

(6) An eligible primary or secondary self-directed electric customer shall submit its multi-year, self-directed plan to the electric provider by November 1 of the calendar year preceding the commencement of the self-directed plan. If the plan is incomplete, the provider shall notify the customer of any deficiency within 15 business days. The customer shall remedy the deficiency and submit a final plan by December 15 of that year.

(7) The biennial self-directed customer report required under section 93(8) of the act, MCL 460.1093(8), shall be filed with the provider by March 15 of every odd year beginning in 2011. The self-directed customer shall provide documentation for equipment and services for those measures implemented. Invoices for equipment or services obtained shall be considered sufficient documentation. Projected energy savings shall be presented on a calendar year basis. Measures implemented part-way through the year may be annualized for calculating energy savings accrued for the year. The report shall describe how energy savings were measured or estimated.

(8) Providers shall notify self-directed customers that they have the option of voluntarily submitting the biennial report described in section 93(8) of the act, MCL 460.1093(8), on an annual basis with the provider, and that the annual submission will facilitate the filing of the provider's annual report to the commission described in section 93(9) of the act, MCL 460.1093(9), and thus allow the provider to document self-directed savings achieved for annual reconciliation.

(9) A self-directed customer may request of the commission a protective order for confidential information submitted in the biennial report, voluntary annual reports, or any other information requested by the commission.

(10) An electric provider shall provide an annual report to the commission staff on March 31 of each year. For annual reports due on even-years, the reporting period will cover the prior calendar year and will contain information estimated to the best of the providers' ability using self-directed customer plans, or information voluntarily provided by self-directed customers. For annual reports due on odd-years, the reporting period shall cover the 2 prior calendar years, corresponding to the reporting period for biennial self-directed customer reports required under section 93(8) of the act, MCL 460.1093(8). The first year of this odd-year annual report shall include updated information derived from self-directed customer's biennial reports. The report shall identify customers implementing self-directed energy optimization plans and summarize the results achieved, in aggregate at all sites covered by a customer's self-directed plan, under section 93(9) of the act, MCL 460.1093(9). The report shall identify those customers who have failed to meet their target savings and any other information the commission determines necessary.

(11) After application and approval by the commission, a provider that incurs costs associated with provider level review, evaluation and measurement of self-directed customer savings for self-directed customers described in section 93(2)(a) of the act, MCL 460.1093(2), may include the approved costs in its base rates.

(12) After application and approval by the commission, a provider that incurs costs associated with provider level review, evaluation and measurement of self-directed customer savings for self-directed customers described in section 93(2)(b) and (c) of the act, MCL 460.1093(2)(b) and (c), may collect from self-direct customers, an annual fee not exceeding .068% of the customer's total retail sales revenue in the preceding year.

(13) An eligible primary or secondary self-directed electric customer who has filed a self-directed plan may terminate the plan in its entirety upon either of the following:

(a) Conclusion of the time period specified in the plan.

(b) Cessation of business operations by the customer. Termination shall apply to the entire plan and all sites encompassed by it.

(14) If a customer decides to terminate participation in the self-directed energy optimization program before the end of the period specified in the customer's self-directed plan, the customer must file an application with the commission to determine the proportion of shortfall in achieving the minimum energy optimization goals under section 93(5)(b) of the act, MCL 460.1093(5)(b). Upon receipt of an application, the commission may conduct a contested case hearing under section 93(10) of the act, MCL 460.1093(10).

(15) An eligible primary or secondary self-directed electric customer who has filed a self-directed plan may terminate a portion of the plan upon any of the following:

(a) Cessation of business operations by the customer at a particular site. The site, in its entirety, shall be terminated from the plan.

(b) Approval from the provider of a customer request to delete a site from the self-directed plan. The site, in its entirety, shall be removed from the plan.

(c) Determination that anticipated results will not be achieved for all or a portion of the sites encompassed in a customer's self-directed plan.

(16) The eligible primary or secondary self-directed electric customer shall send a letter to the provider to terminate all or a portion of a self-directed plan. An amendment to the self-directed plan shall be filed not less than 90 days following the transmittal of the letter. Amendments are not required when a customer's entire self direct plan is terminated. Self-directed customers will report energy saving progress made up to the date of termination in their biennial report for the affected accounts, identifying accounts terminated by service location and account number. The customer is responsible for planned savings up to the date of termination, after which the amended planned savings will apply. Amendments can only be made to add sites to an existing plan during the enrollment period described in subrule (6) of this rule with the exception of new sites acquired or built by a customer who is already a participant in a self-directed plan.

(15) Energy optimization charges for a customer site terminated from a self-directed plan shall begin with the subsequent billing cycle following a 10-day processing period. For self-directed plans amended or terminated, the provider shall count the planned savings before the amendment or termination for the remainder of the year in which the amendment or termination occurred and adjust the savings to account for terminations and amendments in subsequent years.

(16) The contested case hearing procedures and remedies described in section 93(10) of the act, MCL 460.1093(10), shall also apply to early terminations by a self-directed plan customer.

Rule 460.246. Energy optimization program evaluations.

Rule 46. (1) Energy optimization program evaluation requirements for plan proceedings shall include all of the following:

- (a) A description of the request for proposal process used to select an independent evaluation contractor.
- (b) Proposed evaluation budget.
- (c) Proposed evaluation schedule or timeline for implementation of evaluation components.
- (d) Evaluation goals.
- (e) Evaluation methodology including a description of the evaluation approaches considered or ultimately selected for calculating gross and net energy savings.
- (f) When relevant and practicable, market effects evaluations and process evaluations for each energy optimization program that was approved in the prior energy optimization plan, and is proposed to be continued in the current plan period.
- (g) Other evaluation requirements as determined by the commission.

(2) Energy optimization program evaluation requirements for reconciliation proceedings shall include all of the following:

- (a) Use of an independent evaluation contractor selected through a request for proposal process.
- (b) Independent validation of net energy savings achieved by the providers' energy optimization program. The quantification of net energy savings achieved shall include a

consideration of program participation levels, gross energy savings and net-to-gross ratio factors.

(c) Use of annual per-measure energy savings values irrespective of when measures were actually implemented by customers, in validating the net energy savings achieved under subrule (2)(b) of this rule, unless otherwise determined by the commission in a previous plan proceeding.

(d) Use of MEMD values, current at the time the associated energy optimization plan was approved by the commission, or engineering estimates current at the time the energy optimization plan was approved by the commission or measures not included in the MEMD as the source for gross energy savings. The commission, for good cause, may order a provider to use measured gross energy savings values using sampling methods.

(e) Filing of a provider-specific measured net-to-gross ratio analysis for each program implemented during the calendar year being reconciled. The net to gross ratio analysis will be updated every 3 years, and in the interim, providers may use the most current analysis as the source for deemed net-to-gross ratio values. Providers with less than 1,000,000 customers may file a joint net to gross ratio analysis, and may upon commission approval, use statewide deemed net-to-gross ratio values developed by a statewide collaborative that includes interested stakeholders and meets regularly for design, planning, implementation and evaluation of programs.

(f) Gross energy savings discount factors for providers using agreed to gross energy savings values or engineering estimates, in place of measured gross energy savings achieved. Such factors shall reflect equipment installation, operation, and other factors which may impact the calculation of gross energy savings.

(g) Documentation of the source of stipulated gross energy savings or net to gross ratio factors used in the evaluation.

(h) An independent evaluation of the savings from measures implemented by self-directed customer plans and attributed to the provider's energy optimization program or attributed to the administrator's energy optimization program for such utility that has all of the following attributes:

(i) The scope of the review shall be limited to the self-directed customer's savings calculations, plans, and biennial and annual reports described in section 93(8) and (9) of the act, MCL 460.1093(8) and (9).

(ii) Where necessary, the evaluation shall include recommended adjustments to the savings claimed by self-directed customers.

(iii) The independent evaluation shall include a verification that customers have actually implemented the measures indicated in their plans, and a validation of achieved savings, using documentation review and analysis of self-reported information contained in the customer biennial reports, combined with interviews and surveys as deemed necessary.

(iv) The commission staff may conduct field verification.

(i) Any other information that the commission determines to be necessary.

(3) For the first year of the programs, a net to gross ratio of 1.0 shall be used in the reconciliation proceedings. In addition, gross savings discount factors reflecting installation and operation shall also be 1.0 for the first reconciliation. For subsequent years, and unless otherwise approved by the commission, the values of a net to gross ratio and operation and installation discount factors shall be based upon program evaluations under subrule (2) of this rule.

4) Independent expert evaluation, measurement, and verification required by this rule shall not exceed 8% of the costs of implementing the energy optimization plan.

Rule 460.247. Energy optimization annual reports of providers administering own plans.

Rule 47. (1) The requirements of this rule implement section 97(2) of the act, MCL 460.1097(2). The annual report of a provider administering its own energy optimization plan shall include all of the following information, itemized by month:

(a) Revenues billed through energy optimization surcharges.

(b) Expenditures made in the past year and anticipated future expenditures to comply with these rules.

(c) The number of energy optimization credits that the provider generated during the reporting period.

(d) Impact evaluation results including an estimate of gross savings, net savings, and related positive and negative effects.

(e) Third-party verified incremental energy savings resulting from the annual impact evaluation shall be used to determine annual statutory compliance with targets under section 89 of the act, MCL 460.1089.

(f) Uncollectibles expense associated with the energy optimization plan surcharges.

(g) A summary of the results achieved by the customers' self-directed energy optimization plans, including a list of those customers who have failed to meet their target savings.

(h) Any other information that the commission determines necessary.

(2) Within 45 days of the end of each quarter, providers shall submit to the commission year-to-date, interim reports.

(3) The commission shall approve by order, content and format requirements for annual and interim reports for rate regulated utilities, electric cooperatives, member-regulated electric cooperatives, and municipal utilities.

(4) Annual reports described in subrule (1) of this rule shall be submitted within 90 days of the end of each calendar year.

Rule 460.248. Energy optimization annual reports for providers implementing energy optimization programs through administrator.

Rule 48. (1) Each provider with energy optimization plans provided through the administrator shall include all of the following information in its annual report under section 97 of the act, MCL 460.1097:

(a) Revenues billed through energy optimization surcharges.

(b) Payments made to the state selected energy optimization administrator in the past year and anticipated future payments to comply with these rules and the act.

(c) Uncollectibles expenses associated with the energy optimization plan.

(d) A summary of the results achieved by the customers' self-directed energy optimization plans, including a list of those customers who have failed to meet their target savings.

(e) Any other information that the commission determines necessary.

(2) The commission shall approve by order, content and format requirements for annual and interim reports for rate regulated utilities, electric cooperatives, member-regulated electric cooperatives, and municipal utilities.

(3) Annual reports described in subrule (1) of this rule shall be submitted within 90 days of the end of each calendar year,

Rule 460.249 Reconciliation filings for rate regulated providers.

Rule 49. (1) This rule applies to a provider whose rates are regulated by the commission.

(2) Subsequent to the submission of each annual report under section 97 of the act, the commission shall commence an annual proceeding, to be known as energy optimization reconciliation. The annual report or an updated version shall be incorporated into the energy optimization reconciliation docket. The energy optimization reconciliation proceeding shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to MCL 24.238. Reasonable discovery shall be permitted before and during the reconciliation proceeding to assist in obtaining evidence concerning reconciliation issues including, but not limited to, the reasonableness and prudence of expenditures and the amounts collected under the revenue recovery mechanism, and the determination of any financial incentives for program performance exceeding minimum targets under the act.

(3) A provider shall, within 120 days of the end of each calendar year, make a reconciliation filing with the commission. The commission may provide for staggered filing dates of up to 150 days of the end of each calendar year so as to enhance administrative efficiency.

(4) An energy optimization reconciliation filing submitted by providers administering their own plans shall comply with all of the following requirements:

(a) A provider shall demonstrate compliance with statutory energy savings targets through use of an independently verified calculation of net energy savings.

(b) Evaluation requirements in Rule 46 shall be used in calculating and verifying net energy savings.

(c) A provider shall detail energy optimization revenues and expenditures for the preceding calendar year and provide supporting documentation to allow for commission audit.

(d) A provider shall explain and provide supporting calculation for all cost allocations allowing for the commission to determine that the plan did not result in any unreasonable prejudice or disadvantage to any class of customers.

(e) A provider shall demonstrate use of a method for assuring that each electric energy optimization credit substituted for a renewable energy credit under section 27 of the act, MCL 460.1027, or carried forward under section 83 of the act, MCL 460.1083, is accounted for properly.

(5) The following provisions apply to an energy optimization reconciliation filing submitted by a provider implementing an energy optimization programs through the administrator:

(a) Evaluation requirements in Rule 46 shall be used in calculating and verifying net energy savings of the provider's self-directed customers.

(b) A provider shall detail energy optimization revenues, payments to the administrator, and expenditures for the preceding calendar year and provide supporting documentation to allow for commission audit.

(c) A provider shall explain and provide supporting calculations for all cost allocations allowing for the commission to determine that the plan did not result in any unreasonable prejudice or disadvantage to any class of customers.

(d) A provider shall demonstrate use of a method for assuring that each electric energy optimization credit substituted for a renewable energy credit under section 27 of the act,

MCL 460.1027, or carried forward under section 83 of the act, MCL 460.1083, is accounted for properly.

(6) At the energy optimization reconciliation, a provider may propose any necessary modifications of the revenue recovery mechanism to ensure the provider's recovery of its cost of compliance with the energy optimization standards.

(7) The commission shall reconcile the revenues recorded with the amounts actually expended by the provider and projected according to the provider's plan for compliance. The commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged in the relevant reconciliation period. In its orders, the commission shall do both of the following:

(a) Make a determination of a provider's compliance with the energy optimization standards, subject to section 89 of the act, MCL 460.1089.

(b) Adjust the revenue recovery mechanism for the cost of compliance.

(8) Interest on an overrecovery or underrecovery of energy optimization charges shall be applied at the provider's average short-term borrowing rate.

(9) At the energy optimization reconciliation, projected energy savings from measures implemented under a self-directed plan shall be attributed to the provider's energy optimization programs for the purposes of determining annual incremental energy savings achieved by the provider under section 77 or 81 of the act, MCL 460.1077 or MCL 460.1081. With respect to providers who have selected to pay alternative compliance payments, projected savings from measures implemented shall be applied toward the energy optimization performance standards required of the administrator.

Rule 460.250 Reconciliation filing for member-regulated cooperatives and municipally-owned providers.

Rule 50. (1) This rule applies to a member-regulated cooperatives and municipally-owned electric providers.

(2) Subsequent to the submission of each annual report under Rules 47 and 48, the commission shall commence an annual proceeding, to be known as energy optimization reconciliation. The annual report shall be incorporated into the energy optimization reconciliation docket.

(3) A provider shall, within 120 days of the end of each calendar year, make a reconciliation filing with the commission. The commission may provide for staggered filing dates so as to enhance administrative efficiency.

(4) The following provisions apply to an energy optimization reconciliation filing submitted by providers administering their own plans:

(a) A provider shall demonstrate compliance with statutory energy savings targets through use of an independently verified calculation of net energy savings.

(b) Evaluation requirements in Rule 46 shall be used in calculating and verifying net energy savings.

(c) A provider shall demonstrate use of a method for assuring that each electric energy optimization credit substituted for a renewable energy credit under section 27 of the act, MCL 460.1027, or carried forward under section 83 of the act, MCL 460.1083, is accounted for properly.

(5) The following provisions apply to an energy optimization reconciliation filing submitted by providers implementing energy optimization programs through the administrator:

(a) Evaluation requirements in Rule 46 shall be used in calculating and verifying net energy savings of the provider's self-directed customers.

(b) A provider shall demonstrate use of a method for assuring that each electric energy optimization credit substituted for a renewable energy credit under section 27 of the act, MCL 460.1027, or carried forward under section 83 of the act, MCL 460.1083, is accounted for properly.

(6) The commission shall in its order make a determination of a provider's compliance with the energy optimization standards, subject to section 89 of the act, MCL 460.1089.

(7) At the energy optimization reconciliation, projected energy savings from measures implemented under a self-directed plan shall be attributed to the provider's energy optimization programs for determining annual incremental energy savings achieved by the provider under section 77 or 81 of the act, MCL 460.1077 or MCL 460.1081. With respect to providers who have selected to pay alternative compliance payments, projected savings from measures implemented shall be applied toward the energy optimization performance standards required of the administrator.

Appendix A

Filing Requirements and Instructions
for Energy Optimization Plans Rate-Regulated Providers

The utility system resource cost test (USRC) Test.

The USRC Test 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 net program savings. The costs for the USRC Test 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 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 Midwest Independent Transmission System Operator, Inc., 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:

$$NPV_{pa} = B_{pa} - C_{pa} \quad BCR_{pa} = B_{pa}/C_{pa} \quad LC_{pa} = LC_{pc}/IMP$$

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

Plan Elements:

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 MEMD

values, or engineering estimates for measures not included in the MEMD as the source for gross energy savings.

Sample Table 1

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 |

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