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Senate Bill 502 (as introduced 9-14-23)  
Sponsor: Senator Sue Shink  
Committee: Energy and Environment

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### **INTRODUCTION**

The bill would require the Michigan Public Service Commission (MPSC), in its regulation of utilities, to prioritize specified goals, such as goals to ensure equitable access to energy efficiency and compliance with renewable energy standards, and to promote public interest. It would require the Department of Environment, Great Lakes, and Energy (EGLE) to facilitate responsiveness to public interest by holding public input hearings concerning the rate cases and proceedings of specified utilities before the MPSC acted on those cases or proceedings. It also would increase remittances that utilities must make to the Utility Consumer Representation Fund, which provides grants for utility customers to participate in the regulatory process. Additionally, the bill would require the MPSC to base costs to utilities' customer classes in a manner that reflected cost causation.

### **FISCAL IMPACT**

The bill would have a positive fiscal impact on State government and no fiscal impact on local units of government. Under the bill, the MPSC would be required to prioritize and factor certain goals into its decision-making. It is possible that additional resources could be expended due to the time required to develop these goals and to review utility plans that include the new information. It is likely that these activities would be sufficiently covered by existing appropriations.

The bill would double the total amount paid proportionally to the Utility Consumer Representation Fund by certain energy utility companies. The amount for those serving at least 100,000 total customers would increase to \$1.8 million and the amount would increase to \$1.3 million for companies serving at least \$100,000 residential customers. Each qualifying utility company must pay a portion of this amount according to the formula described in the bill. These amounts are available to the Attorney General for the administrative and judicial proceedings before and involving the MPSC as well as proceedings that would have a direct effect on the rates paid by customers. Five percent of the total of the Fund is available for administrative purposes.

The bill would have a minor negative fiscal impact on EGLE due to the incurred administrative costs associated with hosting public hearings prior to the MPSC acting. These costs are not expected to exceed current appropriation levels.

MCL 460.6 et al.

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## **CONTENT**

**The bill would amend Public Act 3 of 1939, the Public Service Commission law, to do the following:**

- Establish goals for the MPSC to prioritize when exercising its authority.**
- Increase the amounts that a utility must remit to the Fund upon its application for a cost recovery case.**
- Require a utility's integrated resource plan (IRP) to address its effects on the goals established by the bill and to provide an analysis on how the utility would meet renewable energy and distributed generation requirements partially proposed in Senate Bill 271.**
- Require EGLE to hold public input hearings on specified cases considered by the MPSC before orders were issued for the cases.**
- Require the MPSC to consider improvements to its decision-making processes and procedures concerning accessibility and transparency, among other aspects.**
- Modify the basis for the MPSC's cost allocations to a utility's customer classes to reflect cost causation.**

### Establish Goals for Ratemaking

Generally, the law authorizes the MPSC to regulate the sales and services of private utilities and cooperative utilities in the State. Under the bill, in executing its duties and powers, the MPSC would have to prioritize the following goals:

- The reliability, safety, and resilience of the utility system.
- Service quality.
- The affordability of utility service.
- Equitable access to energy efficiency, weatherization, home electrification programs and services, and clean energy technologies.
- Minimization of harm and prioritization of benefits in communities consisting predominantly of minorities or households below the poverty line where factors, including socioeconomic stressors, disproportionate cost and environmental burdens, vulnerability to environmental degradation, and lack of accessibility in public participation, could act cumulatively to affect public health and environment and contribute to persistent disparities.
- Compliance with State public policy goals for the utility sector, including the goals of meeting 60% of the State's electricity needs using renewable energy by 2040 and meeting 100% of the State's electricity needs using carbon-free energy by 2040.
- Overall cost-effectiveness and nondiscrimination in providing utility service in the State.

(As used above, "affordability" would include, but not be limited to, the ability of residential customers in the State, including low-income residential customers, to access safe and reliable utility services at a price the customer can pay without compromising the customer's ability to meet other essential needs and any definitions of affordability adopted by the MPSC.)

As part of the MPSC's regulatory authority, a gas utility, electric utility, or steam utility may not increase or change its rates or charges without approval from the MPSC. The law prescribes the process a utility must follow in acquiring that approval, which generally consists of the filing of a rate case, a contested case hearing allowing for the involvement of interested parties, and a final order issued by the MPSC.

Under the bill, throughout this process, the MPSC would have to consider and address whether a utility's filing promoted the public interest. In making that assessment, the MPSC would

have to consider the goals described above and any significant issues raised in a public input hearing as proposed by the bill and described below.

### Increase Remittances to the Utility Consumer Representation Fund

The law establishes the Utility Consumer Representation Fund and requires each regulated utility to remit to the Fund upon an application for a cost recovery case the amounts of money described below. A utility generally files a cost recovery application to adjust its rates based upon changes in power supply costs, and these cases must undergo an MPSC hearing that affords the opportunity for interested parties, such as customers of the utility, to participate. Forty-seven and a half percent of the Fund is distributed to the Attorney General, 47.5% of the Fund is awarded in grants to organizations representing utilities' customers, and 5% is distributed to the Department of Treasury for the Fund's administrative costs.

Remitted amounts are as follows:

- For an energy utility company serving at least 100,000 customers in the State, its proportional share of \$900,000, adjusted annually as prescribed by the law.
- For an energy utility company serving at least 100,000 residential customers in the State, its proportional share of \$650,000, adjusted annually as prescribed by the law.

The bill would double these amounts required to be remitted upon a utility's application for a cost recovery case.

(Generally, proportional share is calculated by dividing a utility's operating or gross revenue for the preceding year by that same revenue of all other utilities serving that number of customers.)

In addition to uses for Federal proceedings, the law specifies that the Fund, minus administrative costs, may be used only for participation in administrative and judicial proceedings for general rate cases, cost recovery cases, a case concerning a utility's purchase of an electric generation facility, and a case concerning a utility's IRP. Under the bill, the Fund could be used only for participation in administrative and judicial proceedings before and involving the MPSC.

### IRP Requirements

Under the law, each utility whose rates are regulated by the MPSC must file an IRP that provides a five-year, 10-year, and 15-year projection of the utility's load obligations and plans to meet those obligations. The IRP must provide a plan to meet the utility's generation reliability requirements and all applicable State and Federal reliability and environmental regulations over those time periods. In addition, the plan must include projections on energy purchased or produced by the electric utility from a renewable energy resource and details on the utility's energy waste reduction efforts, among other requirements.

Under the bill, an IRP also would have to include an analysis of how the electric utility's plan complies with the requirements of Section 28 of the Clean and Renewable Energy and Energy Waste Reduction Act, that 9% of the 60% renewable energy standard was sourced from distributed generation resources. The analysis would have to include proposed incentive programs and ways to eliminate barriers for customers to facilitate compliance with the commitment to distributed generation.

(Section 28 of the Clean and Renewable Energy and Energy Waste Reduction Act generally requires electric providers to source specified percentages of their electricity from renewable

sources. Senate Bill 271 would amend Section 28 of the Act to require electric utilities to source 60% of their electricity from renewable sources by 2034.)

An IRP also would have to include a plan's impact on the goals proposed by the bill that generally concern the following: 1) affordability; 2) equitable access; 3) minimization of harm; and 4) compliance with State public policy.

Under the law, the MPSC must approve an IRP if it determines that the IRP represents the most reasonable and prudent means of meeting the utility's energy and capacity needs based on specified factors and that the construction or investment in resources is completed using a workforce composed of residents in the State as practicable.

Under the bill, in addition to the determinations described above, the MPSC also would have to determine the following:

- The plan was consistent with State public policy goals for the utility sector, including the goals of meeting 60% of the State's electricity needs using renewable energy by 2040 and meeting 100% of the State's electricity needs using carbon-free energy by 2040.
- The plan promoted environmental quality and public health and minimized adverse effects on human health due to power generation, including through the reduction of localized air pollutants, with a priority on improvements in communities disproportionately affected by pollution and other environmental harms.
- The plan promoted the public interest; in assessing this, the MPSC would have to consider the goals proposed by the bill and any significant issues raised in public input hearings proposed by the bill and described below.

#### Public Input Hearings

Under the bill, for an electric utility with more than 1.0 million customers in the State, EGLE would have to hold at least 2 public input hearings before the MPSC did any of the following:

- Issued an order in a general rate case.
- Approved an IRP proceeding.
- Approved a renewable energy plan or an amendment to a renewable energy plan under the Clean and Renewable Energy and Energy Waste Reduction Act.
- Approved an energy waste reduction plan or an amendment to an energy waste reduction plan under the Clean and Renewable Energy and Energy Waste Reduction Act.
- Issued a final order in any other proceeding of substantial public interest, as determined by the MPSC.

The bill would require EGLE to set the time, place, and manner of public input hearings to encourage meaningful participation by low-income residential customers, residential customers who experienced high energy burdens, and individuals, communities, and community-based organizations likely to be most directly impacted by the outcome of the proceeding.

At a public hearing, members of the public could testify formally in the case, under oath or affirmation, and be subject to cross-examination by any party. Formal testimony made under oath would be considered as evidence subject to the customary rules of evidence. Members of the public also could make unsworn or unaffirmed statements and not be subject to cross-examination.

Within 120 days after the bill's effective date, the MPSC would have to open a proceeding to consider improvements to its decision-making processes and procedures with respect to all the following:

- The accessibility and transparency of its decision-making processes.
- Ensuring equitable participation in its decision-making processes, especially by low-income residential customers, residential customers that experienced high energy burdens, and individuals, communities, and community-based organizations most directly affected by the decisions.
- The responsiveness of MPSC decisions to community needs and priorities.

### Ratemaking and Customer Classes

Under the law, the MPSC must establish rates equal to the cost of providing service to each customer class. The cost of providing service to each customer class must be based on the allocation of production related costs using the 75-0-25 method of cost allocation, among other bases. The bill would delete this method of calculation.

Instead, under the bill, the MPSC would have to ensure that the cost of providing service to each customer class was based on the allocation of production-related costs in a manner that reflected cost causation. In making that determination, the MPSC could consider the impact on cost causation of resource adequacy requirements adopted by the regional transmission organization in which the electric utility operated. The MPSC also could consider the energy value, generating profile, and other characteristics of different types or categories of generating resources that affect cost causation. The MPSC could approve different allocation methods for an electric utility's different types or categories of generating resources if it determined that the action allocated production costs in a manner that better reflected cost causation than allocating the production costs of all types and categories of the electric utility's generating resources using the same method.

The commission, on its own motion, could direct an electric utility to file an application for redetermination of a production cost allocation method or methods if it found that circumstances warranted that action.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.