

New Legislation Puts Michigan on the Fast Track to Renewable, Clean Energy

November 28, 2023

On Nov. 28, 2023, Michigan Governor Gretchen Whitmer signed into law energy legislation passed by the House and Senate earlier this month. The law will address Governor Whitmer's 2023 "MI Healthy Climate" initiative, and make renewable, clean energy a priority in Michigan. This new legislation, among other things, sets higher renewable energy portfolio requirements, establishes a 100% clean energy standard by the year 2040, and gives the Michigan Public Service Commission (MPSC) siting authority over large solar and wind projects. These legislative mandates for transitioning to clean energy put Michigan at the top tier of states in the country pursuing clean energy transformation. The effective date of the new legislation is February 13, 2024. The legislation is expected to significantly increase the amount of renewable and clean energy development within the state of Michigan.

Renewable and Clean Energy Portfolio Standards

Under the new legislation, electric providers (investor-owned, cooperatives, multistate, municipal-owned) will be required to generate all electricity from renewable energy—including wind, solar and other carbon-free sources by 2040.

Legislative transitioning mandates require electric providers to achieve renewable energy portfolio standards (RPS) of:

- 15% through 2029
- 50% in 2030 through 2034
- 60% in 2035 and each year thereafter

To meet RPS requirements, electric providers will be required to either generate renewable energy from renewable energy systems (statutorily defined), purchase renewable energy and capacity, or acquire Renewable Energy Credits (RECs). However, RECs will be limited to 5% of the electric provider's required annual RPS and cannot be used to comply with the RPS after 2025. The MPSC may grant a RPS compliance extensions for good cause lasting no more than two years.

Additionally, electric providers will be required to achieve a clean energy portfolio of:

- 80% by 2035 through 2039
- 100% by 2040 and each year thereafter

Clean energy is electricity generated without greenhouse gas emissions and includes nuclear energy and electric generating facilities fueled by natural gas **if** the facilities use carbon capture and storage that is at least 90% effective in capturing and storing CO₂ (a technology that is currently not in wide use.) The MPSC may grant compliance extensions for good cause lasting no longer than two years.

Further, by December 2029, electric providers subject to MPSC rate regulation and alternative electric suppliers will be required to submit plans to construct or acquire energy storage systems or enter into energy storage contracts to meet their share of the statewide energy storage target of a combined capacity of at least 2,500 MW.

Continued

Energy Waste Reduction/Electric Conversion

Under another one of the approved bills, the target savings for energy waste reduction increases to:

- 15% for electricity
- .875% for natural gas

An electric provider that achieves a savings target greater than 2% will be permitted to substitute energy waste reduction credits for REC to meet its RPS.

Electric providers are also now encouraged to implement efficient electrification plans intended to promote the installation and conversion to electricity from natural gas.

Renewable Energy Project Siting

Under the new siting law, the MPSC has authority to certify the construction of these energy facilities:

- Solar - 50 MW or more
- Wind - 100 MW or more
- Energy Storage - 100 MW or more
- Energy Discharge - 200 MW or more

Local governments have the option to retain control over the siting of these facilities if they adopt a renewable energy ordinance no stricter than the provisions in this new legislation. A local moratorium on the development of energy facilities within the local government's jurisdiction will be deemed incompatible. Should local government have a compatible renewable energy ordinance, the energy provider must file for approval with the local government. However, there are off-ramps where the local government's failure to act will vest the MPSC with control over the certification process.

If you have any questions regarding the new energy legislation, please contact your attorneys at Miller Canfield.