The Energy Package

passed by the Legislature this week.

The package includes SB 213 and HB 5524.

SB 213 Renewable Energy and Energy Efficiency

SHORT SUMMARY: SB 213 would require electric utilities to provide 10 percent of their power from renewable resources by 2015, with interim Renewable Portfolio Standard (RPS) targets before that date. The bill would also require electric and gas utilities and their residential, commercial and industrial customers to reduce energy consumption by 5.5 percent by 2015 through an Energy Optimization (EO) program. Utility customers will bear the incremental costs and realize the expected benefits or savings from both programs. Separate legislation would provide a partial offset of incremental costs through a means-tested income tax credit. Small generators will be able to engage in net metering.

ISSUE / PROBLEM: The cost of energy will increase with or without legislative action. Michigan's "fleet" of generating resources is old; new generating resources will be expensive, especially if additional restrictions are placed on carbon dioxide and mercury emissions from fossil-fuel plants.   The intent of this legislation is to provide an integrated approach to renewable energy and energy optimization requirements and, at the same time, limit and identify the incremental costs to customers. The legislation also provides a means to suspend or end individual RPS or EO programs if they become too costly or if they fail to deliver expected results.

BILL CONTENT - Renewable Portfolio Standards

- Major utilities (DTE, Consumers Energy) to achieve RPS of 10 percent by 2015, with interim requirements based on their different starting points. (Consumers Energy has more renewable resources available now, so it has to build or acquire less than DTE to reach 10 percent in 2015.)
- Smaller utilities, such as municipals or co-ops, have similar requirements and schedule.
- RPS to be met with 50 percent utility-owned resources and 50 percent via contracts with other sources including independent power producers.
- Up to 10 percent of the RPS requirement can be met with credits from Energy Optimization (efficiency and conservation) or Advanced Cleaner Energy (ACE) technologies such as coal gasification, industrial cogeneration, or other technologies still under development.
- Defines Renewable Energy Credit (REC) as one credit per megawatt-hour of energy generated from renewable resources.
- Provides for buying, selling and trading of RECs in Michigan and interstate REC markets.
- Michigan Public Service Commission (MPSC) sets tariffs to allow utilities to collect from customers the incremental costs of energy from renewable resources.
- Utility bills to include disclosure of costs and estimated savings or benefits, with notice of possible eligibility for income tax credit.
- Utilities required to file plans, gain approvals, and file compliance reports with MPSC.

- Cost caps for RPS:
  $3.00 per month per residential customer meter

  $16.58 per month per commercial secondary customer meter (with aggregation provisions)

  $187.50 per month per commercial primary or industrial customer meter (with aggregation provisions)

- MPSC to assemble Wind Energy Resource Zone Board to study wind energy potential, identify and list areas with highest potential, estimate range of energy production within each region, seek input from local governments, and report findings. Utility and transmission companies will then identify new or existing transmission facilities and other infrastructure needed to deliver power. MPSC will issue final report and designate primary and additional "wind energy resource zones" based on the board's recommendations, with certain restrictions. Commission may issue expedited siting certificates where appropriate.
- Small customers (up to 20 kW) can benefit from true net metering. Larger generators will share some costs, and generators of 550 kW or larger must be methane digester (agricultural, dairy) operations.

BILL CONTENT - Energy Optimization

- Electric and natural gas utilities file Energy Optimization plans with MPSC.
- Utilities will collect from customers the costs of planning and implementing EO programs.
- Large customers can opt out of utility program and self-direct their own programs.
- Smaller commercial customers, after a year, can opt out and contract with an independent energy optimization service provider.
- MPSC to designate third party to administer statewide EO plan, develop and maintain list of approved independent energy optimization service providers.
- MPSC to review plans, monitor compliance.
- Energy savings of 5.5 percent by 2015, with interim steps. Comparisons based on multi-year averages or weather-adjusted energy sales from previous year.
- Adjustments for individual commercial customers based on increases and decreases in business activity when measuring compliance.
- Built-in spending limits of 2.2 percent of utility revenues from commercial and residential customers and 1.7 percent from industrial customers.
- Utility bill disclosure of costs and estimated savings or benefits from delaying the need for new power plants.
- Ability to use RPS credits for up to 10 percent of the 5.5 percent EO requirement.

Arguments in Support:

- Michigan will join other states that have already established Renewable Portfolio Standards to encourage greater use of clean, renewable sources of electric power.

- Encourages investment in renewable resources such as wind farms, biomass plants, and solar facilities to produce power, as well as new manufacturing facilities and jobs related to the renewable energy industry.
- Energy Optimization, which combines efficiency, conservation, and elements of load management, helps lower customer bills and also defers the need for expensive new generating facilities.
- Built-in limits to protect customers from runaway costs for either RPS or EO.
- Room for emerging technologies, such as coal gasification or plasma arc incineration, to be incorporated into overall compliance strategies.

Arguments in Opposition:

- RPS and EO requirements substitute legislative decisions for market forces. The economic advantages of RPS and EO should stand on their own, without government mandates.
- Guaranteed rate increases for all customers at a time when Michigan's economy is troubled.
- Puts additional regulatory burden and potential penalties on businesses - hurts potential for attracting new businesses to Michigan.
- Additional jurisdiction and administrative burden for the Michigan Public Service Commission.
- Impending federal carbon and mercury regulations could make conventional coal-fired generation more expensive and help renewable energy resources become more competitive in the market.
- Potential federal RPS could duplicate or override state standards.

House Bill 5524 – Electric Re-regulation

SHORT SUMMARY:
 HB 5524 would make significant changes to PA 141 and limit participation in electric choice to 10 percent of the state's electric load; allow implementation of proposed rate increases after six months without MPSC decision; permit utilities to recover interest costs for plants under construction; and require "deskewing" of electric rates among various customer classes over a five-year period.

ISSUE / PROBLEM: The state's major utilities argue that Michigan's current "hybrid" regulatory structure makes it difficult for them to obtain capital at competitive rates so they can begin replacement of part of the state's aging "fleet" of generating resources. They also argue that our "skewed" rate structure, in which commercial customers pay higher rates to subsidize residential rates, puts them at a competitive disadvantage when compared to utilities and commercial rates in other Midwestern states. The Conference Committee version of HB 5524 establishes a 10 percent cap on electric customer choice participation and has a provision that directs a "deskewing" of electric rates over a 5-year period, with a maximum 2.5 percent increase in residential rates per year. HB 5524 also allows utilities to implement rate increases before an MPSC ruling and allows them to charge customers for interest costs related to new plant construction before the plants are operational. The bill also creates additional study and reporting duties for the MPSC and appropriates $2.5 million for the hiring of 25 full-time equivalent positions.

BILL CONTENT:

- Limits electric customer choice to 10 percent of an electric utility's weather-adjusted retail sales for the previous year, with some allowances for growth of existing choice customers.
- Allows utilities to recover financing costs during construction of new facilities before they are completed, and requires additional MPSC scrutiny on major projects that hit 110 percent of approved cost.
- Allows utilities to implement proposed rate increases (or decreases) 180 days after filing if the Michigan Public Service Commission has not issued an order on the rate case. The Commission can later order a refund if its ruling determines that a smaller rate increase was warranted by the application.
- Directs the MPSC to phase in cost-of-service rates for commercial and industrial customers over a 5- year period, and phase in cost-of-service rates for residential customers and metal-melting customers over a 5-year period. Residential and metal-melting rate increases would be limited to no more than 2.5 percent per year. MPSC to set special rates for low-income and senior customers to mitigate impact of deskewing.
- Utilities permitted to file only one general rate case per year.
- Requires MPSC to adopt standard rate case forms and instructions.
- Gives MPSC approval authority over utility mergers and acquisitions.
- Requires utilities to apply for and receive a "certificate of necessity" for the construction or purchase of an electric generation facility (or multiple facilities) with a value of more than $500 million.
- Allows choice customers to return to incumbent utility service from a competitive supplier, and allows surcharges for the incumbent utility to recover certain costs.
- Directs utilities and the MPSC to report on power quality issues, performance, and recommendations for improvements.
- Directs the MPSC to study and report on the advisability of separating electric distribution and generation within utilities.
- Directs utilities to file plans for using dispatchable, customer-owned distributed generation resources in their integrated resource planning process, with proposals for enrolling and compensating customers with dispatchable resources.
- Adds $2.5 million to the MPSC budget for the hiring of 25 additional staff to implement new requirements created by this act.
- Contains compromise language allowing merchant plants using wood, landfill gas or renewable fuels to generate electricity to recover from customers the actual fuel and variable costs above the level set in their electric generation contract.

Arguments in Support:

- **Limit on Customer Choice** - Proponents of a limit on customer choice argue that an uncertain, or hybrid, regulatory scheme in Michigan makes it difficult for incumbent utilities to secure competitive-rate financing necessary to build the next round of major, baseload generating facilities that will be needed to handle a combination of energy demand growth and the need to retire old generating facilities.
- **Recovering Interest Costs During Construction** - Utilities need to able to recover part of the enormous cost of building a new generating facility before it is completed so that interest costs are not allowed to accrue over several years and add significantly to the cost of a new facility.
- **Implementing Rate Increases Before MPSC Order** - Utilities should not have to wait for more than a year for the MPSC to issue a ruling on a rate case.

- **Deskewing Rates** - Electric customers should pay their true cost of service. Under current rate design, residential customers pay less than their cost of service, and commercial customers pay more than their cost of service. Deskewing rates would make commercial electric rates more competitive with those in other states and improve Michigan's business climate.

Arguments in Opposition:

- **Limit on Customer Choice** - Opponents of a limit on customer choice argue that the competition enabled by PA 141 has kept Michigan rates (and rate increases) lower than others in the Midwest, and that the only recent additions to Michigan's generating capacity have been built as independently financed merchant plants with no state guarantees or protections.
- **Recovering Interest Costs During Construction** - Customers should not have to bear the cost of expensive generating plants that are not yet providing power, and customers should not be exposed to potential cost overruns or delays in the completion of a new facility.
- **Implementing Rate Increases Before MPSC Order** - Utilities are often the cause of delayed decisions on rate cases because of the complexities of their filings, multiple motions to delay proceedings and decisions to refile cases.
- **Deskewing Rates** - Most other states also have skewed rates that favor residential customers over business and commercial customers, and determination of true cost-of-service rates for any customer class is a moving target. Also, in a macro economy the effect of minor skewing or deskewing is difficult to identify or measure. Deskewing can be accomplished without legislation through existing rate case procedures and MPSC rulings.

POSITIONS:

SUPPORT: DTE, Consumers Energy and the Michigan Chamber of Commerce, Michigan Manufacturers Association, Jobs and Energy Coalition

OPPOSED: ABATE, Customer Choice Coalition (members include SBAM, Alticor, Spartan Stores, several state associations)