

CRAIN'S DETROIT BUSINESS

Southeast Michigan's Premier Local Business News & Information Web site

Legislators working to finish energy-reform bills

By [Amy Lane](#)

LANSING – Lawmakers are closing in on Michigan energy reforms.

Negotiations were continuing Friday and at least one Tuesday conference committee meeting is scheduled, as lawmakers look to put their final seal on legislation that would boost Michigan's use of renewable energy, limit customers' ability to choose alternative electricity suppliers, alter utility rate structures and establish a new approval process for power plants and utility rates.

The impending finish comes amid urging by **DTE Energy Co.**, **CMS Energy Corp.**, major business associations and others in the **Michigan Jobs and Energy Coalition**.

Trevor Lauer, DTE vice president of retail marketing, said House Bill 5524 and Senate Bill 213 “do a lot to move us forward and recognize the challenges that we're going to have in the energy infrastructure in the next 30 years.”

He said the legislation will drive energy independence, economic development, renewables, and cost-competitiveness for businesses.

But opponents argue the bills will give utilities a monopoly, significantly raise electricity rates, and contain a host of bad public-policy moves.

“It starts with the basic idea that we are eliminating competition, in all forms, from this process,” said Dave Waymire, spokesman for the **Customer Choice Coalition**, an organization of large- and small-business groups, consumer interests and alternative-electricity suppliers. “It's a prescription for massive cost overruns at a time when our state cannot afford higher electric bills.”

Key elements include:

* A 10 percent limit on the amount of a utility's customer load that can go to alternative suppliers. Current choice customers would be exempt from having any future business expansion count toward the statewide cap. Currently, about 3 percent of the state's overall load is on choice.

* A requirement that electricity providers obtain what is likely to be 10 percent of their electricity from renewable sources by 2015. Also discussed is allowing up to 10 percent of that target to be met through certain energy technologies, industrial co-generation projects, capture and reuse of exhaust gasses from manufacturing plants, and other specified means. Critics say that is too permissive and the legislation needs to do more to encourage the development of renewable resources.

To help meet the target, utilities would assess customer surcharges. Officials have discussed income-tax credits to offset a maximum \$3 per month charge for residential customers.

* Business' current subsidy of residential rates would end, causing residential bills to rise and commercial and industrial bills to drop. Cost-of-service rates would phase in over five years for business customers; there were conflicting reports Friday as to whether residential rates would phase in over five years or 10 years. A cap would prevent residential rates from rising more than 2.5 percent annually.

* Utilities could enact proposed rate increases if the **Michigan Public Service Commission** did not act on their filings within six months. The PSC would have to complete all general rate cases within 12 months, and if it finds that utilities are not justified in the interim rates, the commission could order refunds, with interest.

“We believe that it will make them be more careful in what they file in a rate case,” said House Energy & Technology Committee Chairman Frank Accavitti, D-Eastpointe. He is sponsor of HB 5524 and chairman of the bill's conference committee.

* Utilities would apply to the PSC for a certificate of necessity to build a plant or enter into a long-term power purchase agreement. The PSC would review cost estimates and issue a certificate that includes approved cost amounts. However, lawmakers are likely to allow utilities to recoup, in rates, an amount above the expected cost, without seeking additional PSC approval.

The House bill version allows for cost overruns of up to 25 percent while the Senate called for 10 percent. Accavitti said it will likely be 10 percent in the final version.

Waymire, at the Customer Choice Coalition, said utilities shouldn't be allowed to build any cost overruns into rates.

“Utilities should be required to provide a price and live up to it, just as every other state contractor is,” he said.

But Jeff Holyfield, CMS director of news and information, said the provision is important to

allow for the lead time it takes to build plants and the amounts that the costs of materials, such as steel, concrete and copper, as well as labor, can fluctuate.

For example, CMS' **Consumers Energy Co.** is preparing for a more than \$2 billion, 800-megawatt coal-fired plant that will take four to five years to construct, after the company breaks ground, Holyfield said.

DTE Energy plans the week of Sept. 15 to file a federal license application with the **Nuclear Regulatory Commission** to construct and operate what could be an \$8 billion, 1,520 megawatt nuclear plant for its **Detroit Edison Co.**

New York City-based credit-rating firm **Fitch Ratings** considers key components of the bills to be supportive of utilities' credit, because of increased certainty of cost recovery and reduced regulatory lag. Karen Anderson, senior director in Fitch's Chicago office, said the "file and use" rates and certificate of need process are central issues that Fitch sees as favorable.

Waymire said that when conference committees reach agreements on the bills, lawmakers should not rapidly approve the measures.

"The public must be given a chance to understand what is actually in these bills," he said.

September 12, 2008

Amy Lane: (517) 371-5355, alane@crain.com