

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

March 3, 2022

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

SB22-118 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, page 3, lines 2 and 3, strike "**amend** (1)(u); and **add**"
2 and substitute "**add** (1)(v) and".

3 Page 3, strike lines 6 through 13 and substitute:

4 "(v) IN CONSULTATION WITH THE APPROPRIATE INDUSTRIES,
5 DEVELOP BASIC CONSUMER EDUCATION OR GUIDANCE ABOUT PURCHASED
6 OR, IF AVAILABLE, LEASED INSTALLATION OF A SYSTEM THAT USES
7 GEOTHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING OR
8 COOLING IN A SINGLE BUILDING OR FOR SPACE HEATING FOR MORE THAN
9 ONE BUILDING THROUGH A PIPELINE NETWORK."

10 Page 3, line 14, strike "SHALL" and substitute "MAY".

11 Page 4, strike lines 12 through 14 and substitute:

12 "(II) "GEOTHERMAL ENERGY SYSTEM" MEANS A SYSTEM THAT
13 USES GEOTHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING OR
14 COOLING IN A SINGLE BUILDING, FOR SPACE HEATING FOR MORE THAN ONE
15 BUILDING THROUGH A PIPELINE NETWORK, OR FOR ELECTRICITY
16 GENERATION."

17 Page 4, line 26, strike "OR GEOTHERMAL EQUIPMENT, WHICH".

18 Page 4, strike line 27.

19 Page 5, strike lines 1 and 2 and substitute "OR EQUIPMENT USED AS PART
20 OF A SYSTEM THAT USES GEOTHERMAL ENERGY FOR WATER HEATING OR
21 SPACE HEATING OR COOLING IN A SINGLE BUILDING, FOR SPACE HEATING

1 FOR MORE THAN ONE BUILDING THROUGH A PIPELINE NETWORK, OR FOR
2 ELECTRICITY GENERATION."

3 Page 5, strike lines 15 through 18 and substitute "solar or other alternative
4 electrical energy-producing improvements to serve that structure or other
5 structures on contiguous property under common ownership OR
6 INSTALLATION OF A SYSTEM THAT USES GEOTHERMAL ENERGY FOR WATER
7 HEATING OR SPACE HEATING OR COOLING IN A SINGLE STRUCTURE."

8 Page 6, line 7, strike "sources OR FOR GEOTHERMAL".

9 Page 6, strike lines 8 and 9 and substitute "sources, INCLUDING
10 GEOTHERMAL ENERGY USED FOR WATER HEATING OR SPACE HEATING OR
11 COOLING IN A SINGLE BUILDING, FOR SPACE HEATING FOR MORE THAN ONE
12 BUILDING THROUGH A PIPELINE NETWORK, OR FOR ELECTRICITY
13 GENERATION."

14 Page 7, strike lines 9 through 11 and substitute "AND "GEOTHERMAL
15 ENERGY SYSTEM" MEANS A SYSTEM THAT USES GEOTHERMAL ENERGY FOR
16 WATER HEATING OR SPACE HEATING OR COOLING IN A SINGLE BUILDING,
17 FOR SPACE HEATING FOR MORE THAN ONE BUILDING THROUGH A PIPELINE
18 NETWORK, OR FOR ELECTRICITY GENERATION."

19 Page 7, strike lines 22 through 24 and substitute "addition of a solar
20 energy device OR A DEVICE USED AS PART OF A SYSTEM THAT USES
21 GEOTHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING OR
22 COOLING to such".

23 Page 9, strike lines 3 through 5 and substitute "AND "GEOTHERMAL
24 ENERGY SYSTEM" MEANS A SYSTEM THAT USES GEOTHERMAL ENERGY FOR
25 WATER HEATING OR SPACE HEATING OR COOLING IN A SINGLE BUILDING,
26 FOR SPACE HEATING FOR MORE THAN ONE BUILDING THROUGH A PIPELINE
27 NETWORK, OR FOR ELECTRICITY GENERATION."

28 Page 10, strike lines 7 and 8 and substitute "alternate energy sources,
29 INCLUDING GEOTHERMAL ENERGY USED FOR WATER HEATING OR SPACE
30 HEATING OR COOLING IN A SINGLE BUILDING, FOR SPACE HEATING FOR
31 MORE THAN ONE BUILDING THROUGH A PIPELINE NETWORK, OR FOR
32 ELECTRICITY GENERATION; however,".

33 Page 10, strike lines 13 through 27.

34 Page 11, strike lines 1 through 25.

1 Renumber succeeding sections accordingly.

2 Page 12, strike lines 9 through 27.

3 Strike pages 13 through 21.

4 Page 22, strike lines 1 through 24 and substitute:

5 "SECTION 11. In Colorado Revised Statutes, **add** 40-2-127.5 as
6 follows:

7 **40-2-127.5. Community energy funds - community geothermal**
8 **gardens - rules - legislative declaration - definitions - repeal.**

9 (1) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND
10 DECLARES THAT:

11 (a) LOCAL COMMUNITIES CAN BENEFIT FROM THE FURTHER
12 DEVELOPMENT OF RENEWABLE ENERGY, ENERGY EFFICIENCY,
13 CONSERVATION, AND ENVIRONMENTAL IMPROVEMENT PROJECTS, AND THE
14 GENERAL ASSEMBLY HEREBY ENCOURAGES ELECTRIC UTILITIES TO
15 ESTABLISH COMMUNITY ENERGY FUNDS FOR THE DEVELOPMENT OF SUCH
16 PROJECTS;

17 (b) IT IS IN THE PUBLIC INTEREST THAT BROADER PARTICIPATION
18 IN GEOTHERMAL ELECTRIC GENERATION BY COLORADO RESIDENTS AND
19 COMMERCIAL ENTITIES BE ENCOURAGED BY THE DEVELOPMENT AND
20 DEPLOYMENT OF DISTRIBUTED GEOTHERMAL ELECTRIC GENERATING
21 FACILITIES KNOWN AS COMMUNITY GEOTHERMAL GARDENS, IN ORDER TO:

22 (I) PROVIDE COLORADO RESIDENTS AND COMMERCIAL ENTITIES
23 WITH THE OPPORTUNITY TO PARTICIPATE IN GEOTHERMAL ELECTRICITY
24 GENERATION;

25 (II) ALLOW RENTERS, LOW-INCOME UTILITY CUSTOMERS, AND
26 AGRICULTURAL PRODUCERS TO OWN INTERESTS IN SUCH GEOTHERMAL
27 GENERATION FACILITIES;

28 (III) ALLOW INTERESTS IN SUCH GEOTHERMAL GENERATION
29 FACILITIES TO BE PORTABLE AND TRANSFERRABLE; AND

30 (IV) LEVERAGE COLORADO'S GEOTHERMAL ELECTRICITY
31 GENERATING CAPACITY THROUGH ECONOMIES OF SCALE.

32 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
33 OTHERWISE REQUIRES, THE DEFINITIONS IN SECTION 40-2-124 APPLY, AND:

34 (a) (I) "COMMUNITY GEOTHERMAL GARDEN" MEANS A
35 GEOTHERMAL FACILITY THAT PRODUCES ELECTRICITY FROM THE EARTH'S
36 HEAT WITH A NAMEPLATE RATING WITHIN THE RANGE SPECIFIED UNDER
37 SUBSECTION (2)(b)(IV) OF THIS SECTION THAT IS LOCATED IN OR NEAR A
38 COMMUNITY SERVED BY A QUALIFYING RETAIL UTILITY WHERE THE
39 BENEFICIAL USE OF THE ELECTRICITY GENERATED BY THE FACILITY

1 BELONGS TO THE SUBSCRIBERS TO THE COMMUNITY GEOTHERMAL
2 GARDEN. THERE MUST BE AT LEAST TEN SUBSCRIBERS. THE OWNER OF THE
3 COMMUNITY GEOTHERMAL GARDEN MAY BE THE QUALIFYING RETAIL
4 UTILITY OR ANY OTHER FOR-PROFIT OR NONPROFIT ENTITY OR
5 ORGANIZATION, INCLUDING A SUBSCRIBER ORGANIZATION ORGANIZED
6 UNDER THIS SECTION, THAT CONTRACTS TO SELL THE OUTPUT FROM THE
7 COMMUNITY GEOTHERMAL GARDEN TO THE QUALIFYING RETAIL UTILITY.
8 A COMMUNITY GEOTHERMAL GARDEN IS DEEMED TO BE "LOCATED ON THE
9 SITE OF CUSTOMER FACILITIES".

10 (II) A COMMUNITY GEOTHERMAL GARDEN CONSTITUTES "RETAIL
11 DISTRIBUTED GENERATION" WITHIN THE MEANING OF SECTION 40-2-124.

12 (III) NOTWITHSTANDING ANY PROVISION OF THIS SECTION OR
13 SECTION 40-2-124 TO THE CONTRARY, A COMMUNITY GEOTHERMAL
14 GARDEN CONSTITUTES RETAIL DISTRIBUTED GENERATION FOR PURPOSES
15 OF A COOPERATIVE ELECTRIC ASSOCIATION'S COMPLIANCE WITH THE
16 APPLICABLE RENEWABLE ENERGY STANDARD UNDER SECTION 40-2-124.

17 (IV) A COMMUNITY GEOTHERMAL GARDEN MUST HAVE A
18 NAMEPLATE RATING OF FIVE MEGAWATTS OR LESS; EXCEPT THAT THE
19 COMMISSION MAY, IN RULES ADOPTED PURSUANT TO SUBSECTION (3)(b)
20 OF THIS SECTION, APPROVE THE FORMATION OF A COMMUNITY
21 GEOTHERMAL GARDEN WITH A NAMEPLATE RATING OF UP TO TEN
22 MEGAWATTS ON OR AFTER JULY 1, 2023.

23 (b) "SUBSCRIBER" MEANS A RETAIL CUSTOMER OF A QUALIFYING
24 RETAIL UTILITY WHO OWNS A SUBSCRIPTION AND WHO HAS IDENTIFIED ONE
25 OR MORE PHYSICAL LOCATIONS TO WHICH THE SUBSCRIPTION IS
26 ATTRIBUTED. SUCH PHYSICAL LOCATIONS MUST BE WITHIN THE SERVICE
27 TERRITORY OF THE SAME QUALIFYING RETAIL UTILITY AS THE COMMUNITY
28 GEOTHERMAL GARDEN. THE SUBSCRIBER MAY CHANGE FROM TIME TO
29 TIME THE PREMISES TO WHICH THE COMMUNITY GEOTHERMAL GARDEN
30 ELECTRICITY GENERATION IS ATTRIBUTED, SO LONG AS THE PREMISES ARE
31 WITHIN THE SAME SERVICE TERRITORY.

32 (c) "SUBSCRIPTION" MEANS A PROPORTIONAL INTEREST IN
33 GEOTHERMAL ELECTRIC GENERATION FACILITIES INSTALLED AT A
34 COMMUNITY GEOTHERMAL GARDEN, TOGETHER WITH THE RENEWABLE
35 ENERGY CREDITS ASSOCIATED WITH OR ATTRIBUTABLE TO SUCH FACILITIES
36 UNDER SECTION 40-2-124. EACH SUBSCRIPTION MUST BE SIZED TO
37 REPRESENT AT LEAST ONE KILOWATT OF THE COMMUNITY GEOTHERMAL
38 GARDEN'S GENERATING CAPACITY AND TO SUPPLY NO MORE THAN ONE
39 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF
40 ELECTRICITY BY EACH SUBSCRIBER AT THE PREMISES TO WHICH THE
41 SUBSCRIPTION IS ATTRIBUTED, WITH A DEDUCTION FOR THE AMOUNT OF
42 ANY EXISTING GEOTHERMAL FACILITIES AT SUCH PREMISES.
43 SUBSCRIPTIONS IN A COMMUNITY GEOTHERMAL GARDEN MAY BE

1 TRANSFERRED OR ASSIGNED TO A SUBSCRIBER ORGANIZATION OR TO ANY
2 PERSON OR ENTITY WHO QUALIFIES TO BE A SUBSCRIBER UNDER THIS
3 SECTION.

4 (3) **Subscriber organization - subscriber qualifications -**
5 **transferability of subscriptions.** (a) THE COMMUNITY GEOTHERMAL
6 GARDEN MAY BE OWNED BY A SUBSCRIBER ORGANIZATION, WHOSE SOLE
7 PURPOSE IS BENEFICIALLY OWNING AND OPERATING A COMMUNITY
8 GEOTHERMAL GARDEN. THE SUBSCRIBER ORGANIZATION MAY BE ANY
9 FOR-PROFIT OR NONPROFIT ENTITY PERMITTED BY COLORADO LAW. THE
10 COMMUNITY GEOTHERMAL GARDEN MAY ALSO BE BUILT, OWNED, AND
11 OPERATED BY A THIRD PARTY UNDER CONTRACT WITH THE SUBSCRIBER
12 ORGANIZATION.

13 (b) THE COMMISSION SHALL ADOPT RULES AS NECESSARY TO
14 IMPLEMENT THIS SECTION, INCLUDING RULES TO FACILITATE THE
15 FINANCING OF SUBSCRIBER-OWNED COMMUNITY GEOTHERMAL GARDENS.
16 THE RULES MUST INCLUDE:

17 (I) MINIMUM CAPITALIZATION;

18 (II) THE SHARE OF A COMMUNITY GEOTHERMAL GARDEN'S
19 GEOTHERMAL ELECTRIC GENERATION FACILITIES THAT A SUBSCRIBER
20 ORGANIZATION MAY AT ANY TIME OWN IN ITS OWN NAME; AND

21 (III) AUTHORIZING SUBSCRIBER ORGANIZATIONS TO ENTER INTO
22 LEASES, SALE-AND-LEASEBACK TRANSACTIONS, OPERATING AGREEMENTS,
23 AND OTHER OWNERSHIP ARRANGEMENTS WITH THIRD PARTIES.

24 (c) IF A SUBSCRIBER CEASES TO BE A CUSTOMER AT THE PREMISES
25 ON WHICH THE SUBSCRIPTION IS BASED BUT, WITHIN A REASONABLE
26 PERIOD AS DETERMINED BY THE COMMISSION, BECOMES A CUSTOMER AT
27 ANOTHER PREMISES IN THE SERVICE TERRITORY OF THE QUALIFYING
28 RETAIL UTILITY AND WITHIN THE GEOGRAPHIC AREA SERVED BY THE
29 COMMUNITY GEOTHERMAL GARDEN, THE SUBSCRIPTION CONTINUES IN
30 EFFECT BUT THE BILL CREDIT AND OTHER FEATURES OF THE SUBSCRIPTION
31 ARE ADJUSTED AS NECESSARY TO REFLECT ANY DIFFERENCES BETWEEN
32 THE NEW AND PREVIOUS PREMISES' CUSTOMER CLASSIFICATION AND
33 AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY.

34 (4) **Standards for construction and operation.** THE FOLLOWING
35 REQUIREMENTS APPLY TO ANY COMMUNITY GEOTHERMAL GARDEN
36 EXCEEDING TWO MEGAWATTS:

37 (a) THE INITIAL INSTALLATION OF ANY ELECTRICAL EQUIPMENT
38 ASSOCIATED WITH THE COMMUNITY GEOTHERMAL GARDEN IS SUBJECT TO
39 FINAL INSPECTION AND APPROVAL IN ACCORDANCE WITH SECTION
40 12-115-120.

41 (b) FOLLOWING THE DEVELOPMENT OR ACQUISITION BY A
42 QUALIFYING RETAIL UTILITY OF A COMMUNITY GEOTHERMAL GARDEN IN
43 WHICH THE QUALIFYING RETAIL UTILITY RETAINS OWNERSHIP, THE

1 QUALIFYING RETAIL UTILITY SHALL EITHER USE ITS OWN EMPLOYEES TO
2 OPERATE AND MAINTAIN THE COMMUNITY GEOTHERMAL GARDEN OR
3 CONTRACT FOR OPERATION AND MAINTENANCE OF THE COMMUNITY
4 GEOTHERMAL GARDEN BY A CONTRACTOR WHOSE EMPLOYEES HAVE
5 ACCESS TO AN APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED
6 STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR WITH A
7 STATE APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT
8 THAT THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

9 (I) THE DESIGN, PLANNING, OR ENGINEERING OF THE
10 INFRASTRUCTURE;

11 (II) MANAGEMENT FUNCTIONS TO OPERATE THE INFRASTRUCTURE;
12 OR

13 (III) ANY WORK INCLUDED IN A WARRANTY.

14 (5) **Community geothermal gardens not subject to regulation.**

15 NEITHER THE OWNERS OF NOR THE SUBSCRIBERS TO A COMMUNITY
16 GEOTHERMAL GARDEN ARE CONSIDERED PUBLIC UTILITIES SUBJECT TO
17 REGULATION BY THE COMMISSION SOLELY AS A RESULT OF THEIR INTEREST
18 IN THE COMMUNITY GEOTHERMAL GARDEN. PRICES PAID FOR
19 SUBSCRIPTIONS IN COMMUNITY GEOTHERMAL GARDENS SHALL NOT BE
20 SUBJECT TO REGULATION BY THE COMMISSION.

21 (6) **Purchases of the output from community geothermal**
22 **gardens.** (a) (I) EACH QUALIFYING RETAIL UTILITY SHALL SET FORTH IN
23 ITS PLAN FOR ACQUISITION OF RENEWABLE RESOURCES A PLAN TO
24 PURCHASE THE ELECTRICITY AND RENEWABLE ENERGY CREDITS
25 GENERATED FROM ONE OR MORE COMMUNITY GEOTHERMAL GARDENS
26 OVER THE PERIOD COVERED BY THE PLAN.

27 (IV) FOR EACH QUALIFYING RETAIL UTILITY'S COMPLIANCE YEARS
28 COMMENCING IN 2023 AND THEREAFTER, THE COMMISSION SHALL
29 DETERMINE THE MINIMUM AND MAXIMUM PURCHASES OF ELECTRICAL
30 OUTPUT FROM NEWLY INSTALLED COMMUNITY GEOTHERMAL GARDENS OF
31 DIFFERENT OUTPUT CAPACITY THAT THE QUALIFYING RETAIL UTILITY
32 SHALL PLAN TO ACQUIRE. IN ADDITION, AS NECESSARY, THE COMMISSION
33 SHALL FORMULATE AND IMPLEMENT POLICIES CONSISTENT WITH THIS
34 SECTION THAT SIMULTANEOUSLY ENCOURAGE:

35 (A) THE OWNERSHIP BY CUSTOMERS OF SUBSCRIPTIONS IN
36 COMMUNITY GEOTHERMAL GARDENS AND OF OTHER FORMS OF
37 DISTRIBUTED GENERATION, TO THE EXTENT THE COMMISSION FINDS THERE
38 TO BE CUSTOMER DEMAND FOR SUCH OWNERSHIP;

39 (B) OWNERSHIP IN COMMUNITY GEOTHERMAL GARDENS BY
40 RESIDENTIAL RETAIL CUSTOMERS AND AGRICULTURAL PRODUCERS,
41 INCLUDING LOW-INCOME CUSTOMERS, TO THE EXTENT THE COMMISSION
42 FINDS THERE TO BE DEMAND FOR SUCH OWNERSHIP;

43 (C) THE DEVELOPMENT OF COMMUNITY GEOTHERMAL GARDENS

1 WITH ATTRIBUTES THAT THE COMMISSION FINDS RESULT IN LOWER
2 OVERALL TOTAL COSTS FOR THE QUALIFYING RETAIL UTILITY'S
3 CUSTOMERS;

4 (D) SUCCESSFUL FINANCING AND OPERATION OF COMMUNITY
5 GEOTHERMAL GARDENS OWNED BY SUBSCRIBER ORGANIZATIONS; AND

6 (E) THE ACHIEVEMENT OF THE GOALS AND OBJECTIVES OF SECTION
7 40-2-124.

8 (b) (I) (A) THE OUTPUT FROM A COMMUNITY GEOTHERMAL
9 GARDEN MUST BE SOLD ONLY TO THE QUALIFYING RETAIL UTILITY SERVING
10 THE GEOGRAPHIC AREA WHERE THE COMMUNITY GEOTHERMAL GARDEN
11 IS LOCATED.

12 (B) ONCE A COMMUNITY GEOTHERMAL GARDEN IS PART OF A
13 QUALIFYING RETAIL UTILITY'S PLAN FOR ACQUISITION OF RENEWABLE
14 RESOURCES, AS APPROVED BY THE COMMISSION, THE COMMISSION SHALL
15 INITIATE A PROCEEDING, OR CONSIDER IN AN ACTIVE PROCEEDING, TO
16 DETERMINE WHETHER THE QUALIFYING RETAIL UTILITY MUST PURCHASE
17 ALL OF THE ELECTRICITY AND RENEWABLE ENERGY CREDITS GENERATED
18 BY THE COMMUNITY GEOTHERMAL GARDEN OR WHETHER A SUBSCRIBER
19 MAY, UPON BECOMING A SUBSCRIBER, CHOOSE TO RETAIN OR SELL TO THE
20 QUALIFYING RETAIL UTILITY THE SUBSCRIBER'S RENEWABLE ENERGY
21 CREDITS.

22 (C) THE AMOUNT OF ELECTRICITY AND RENEWABLE ENERGY
23 CREDITS GENERATED BY EACH COMMUNITY GEOTHERMAL GARDEN IS
24 DETERMINED BY A PRODUCTION METER INSTALLED BY THE QUALIFYING
25 RETAIL UTILITY OR THIRD-PARTY SYSTEM OWNER AND PAID FOR BY THE
26 OWNER OF THE COMMUNITY GEOTHERMAL GARDEN.

27 (II) THE PURCHASE OF THE OUTPUT OF A COMMUNITY
28 GEOTHERMAL GARDEN BY A QUALIFYING RETAIL UTILITY TAKES THE FORM
29 OF A NET METERING CREDIT AGAINST THE QUALIFYING RETAIL UTILITY'S
30 ELECTRIC BILL TO EACH COMMUNITY GEOTHERMAL GARDEN SUBSCRIBER
31 AT THE PREMISES SET FORTH IN THE SUBSCRIBER'S SUBSCRIPTION. THE NET
32 METERING CREDIT IS CALCULATED BY MULTIPLYING THE SUBSCRIBER'S
33 SHARE OF THE ELECTRICITY PRODUCTION FROM THE COMMUNITY
34 GEOTHERMAL GARDEN BY THE QUALIFYING RETAIL UTILITY'S TOTAL
35 AGGREGATE RETAIL RATE AS CHARGED TO THE SUBSCRIBER, MINUS A
36 REASONABLE CHARGE AS DETERMINED BY THE COMMISSION TO COVER THE
37 UTILITY'S COSTS OF DELIVERING TO THE SUBSCRIBER'S PREMISES THE
38 ELECTRICITY GENERATED BY THE COMMUNITY GEOTHERMAL GARDEN,
39 INTEGRATING THE GEOTHERMAL GENERATION WITH THE UTILITY'S
40 SYSTEM, AND ADMINISTERING THE COMMUNITY GEOTHERMAL GARDEN'S
41 CONTRACTS AND NET METERING CREDITS. THE COMMISSION SHALL ENSURE
42 THAT THIS CHARGE DOES NOT REFLECT COSTS THAT ARE ALREADY
43 RECOVERED BY THE UTILITY FROM THE SUBSCRIBER THROUGH OTHER

1 CHARGES. IF, AND TO THE EXTENT THAT, A SUBSCRIBER'S NET METERING
2 CREDIT EXCEEDS THE SUBSCRIBER'S ELECTRIC BILL IN ANY BILLING PERIOD,
3 THE NET METERING CREDIT IS CARRIED FORWARD AND APPLIED AGAINST
4 FUTURE BILLS. THE QUALIFYING RETAIL UTILITY AND THE OWNER OF THE
5 COMMUNITY GEOTHERMAL GARDEN MUST AGREE ON WHETHER THE
6 PURCHASE OF THE RENEWABLE ENERGY CREDITS FROM SUBSCRIBERS WILL
7 BE ACCOMPLISHED THROUGH A CREDIT ON EACH SUBSCRIBER'S
8 ELECTRICITY BILL OR BY A PAYMENT TO THE OWNER OF THE COMMUNITY
9 GEOTHERMAL GARDEN.

10 (c) THE OWNER OF THE COMMUNITY GEOTHERMAL GARDEN MUST
11 PROVIDE REAL-TIME PRODUCTION DATA TO THE QUALIFYING RETAIL
12 UTILITY TO FACILITATE INCORPORATION OF THE COMMUNITY GEOTHERMAL
13 GARDEN INTO THE UTILITY'S OPERATION OF ITS ELECTRIC SYSTEM AND TO
14 FACILITATE THE PROVISION OF NET METERING CREDITS.

15 (d) THE OWNER OF THE COMMUNITY GEOTHERMAL GARDEN IS
16 RESPONSIBLE FOR PROVIDING TO THE QUALIFYING RETAIL UTILITY, ON A
17 MONTHLY BASIS AND WITHIN REASONABLE PERIODS SET BY THE
18 QUALIFYING RETAIL UTILITY, THE PERCENTAGE SHARES THAT SHOULD BE
19 USED TO DETERMINE THE NET METERING CREDIT TO EACH SUBSCRIBER. IF
20 THE ELECTRICITY OUTPUT OF THE COMMUNITY GEOTHERMAL GARDEN IS
21 NOT FULLY SUBSCRIBED, THE QUALIFYING RETAIL UTILITY SHALL
22 PURCHASE THE UNSUBSCRIBED RENEWABLE ENERGY AND THE RENEWABLE
23 ENERGY CREDITS AT A RATE EQUAL TO THE QUALIFYING RETAIL UTILITY'S
24 AVERAGE HOURLY INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE
25 IMMEDIATELY PRECEDING CALENDAR YEAR.

26 (e) EACH QUALIFYING RETAIL UTILITY SHALL SET FORTH IN ITS
27 PLAN FOR ACQUISITION OF RENEWABLE RESOURCES A PROPOSAL FOR
28 INCLUDING LOW-INCOME CUSTOMERS AS SUBSCRIBERS TO A COMMUNITY
29 GEOTHERMAL GARDEN. THE UTILITY MAY GIVE PREFERENCE TO
30 COMMUNITY GEOTHERMAL GARDENS THAT HAVE LOW-INCOME
31 SUBSCRIBERS.

32 (f) QUALIFYING RETAIL UTILITIES ARE ELIGIBLE FOR THE
33 INCENTIVES AND SUBJECT TO THE OWNERSHIP LIMITATIONS SET FORTH IN
34 SECTION 40-2-124 (1)(f) FOR UTILITY INVESTMENTS IN COMMUNITY
35 GEOTHERMAL GARDENS AND MAY RECOVER THROUGH RATES A MARGIN,
36 IN AN AMOUNT DETERMINED BY THE COMMISSION, ON ALL ENERGY AND
37 RENEWABLE ENERGY CREDITS PURCHASED FROM COMMUNITY
38 GEOTHERMAL GARDENS. SUCH INCENTIVE PAYMENTS ARE EXCLUDED
39 FROM THE COST ANALYSIS REQUIRED BY SECTION 40-2-124 (1)(g).

40 (6) NOTHING IN THIS SECTION WAIVES OR SUPERSEDES THE RETAIL
41 RATE IMPACT LIMITATIONS IN SECTION 40-2-124 (1)(g). UTILITY
42 EXPENDITURES FOR UNSUBSCRIBED ENERGY AND RENEWABLE ENERGY
43 CREDITS GENERATED BY COMMUNITY GEOTHERMAL GARDENS MUST BE

1 INCLUDED IN THE CALCULATIONS OF RETAIL RATE IMPACT REQUIRED BY
2 THAT SECTION.

3 (7) **Applicability to cooperative electric associations and**
4 **municipally owned utilities.** THIS SECTION SHALL NOT APPLY TO
5 COOPERATIVE ELECTRIC ASSOCIATIONS OR TO MUNICIPALLY OWNED
6 UTILITIES.

7 **SECTION 12.** In Colorado Revised Statutes, 25-7-105, **amend**
8 (1)(e)(VIII)(H) as follows:

9 **25-7-105. Duties of commission - rules - legislative declaration**
10 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,
11 the commission shall promulgate rules that are consistent with the
12 legislative declaration set forth in section 25-7-102 and necessary for the
13 proper implementation and administration of this article 7, including:

14 (e) (VIII) (H) In verifying clean energy plans or a wholesale
15 generation and transmission cooperative electric resource plan submitted
16 in accordance with subsection (1)(e)(VIII)(I) of this section, the division
17 shall prevent double counting of emission reductions among utilities and
18 shall consider electricity generated by renewable energy resources as
19 having zero greenhouse gas emissions only if: The electricity is
20 accompanied by any associated renewable energy credit, and the
21 renewable energy credit is retired on behalf of the utility's customers in
22 the year generated; or the electricity is generated by retail distributed
23 generation, as defined in sections 40-2-124 (1)(a)(VIII), ~~and 40-2-127~~
24 ~~(2)(b)(I)(A) and (2)(b)(I)(B), AND 40-2-127.5 (2)(a)(I) AND (2)(a)(II), and~~
25 ~~the retail customer retains the renewable energy credit as part of a~~
26 ~~voluntary renewable energy program."~~

27 Renumber succeeding sections accordingly.

28 Page 23, strike lines 4 through 7 and substitute "a community solar
29 garden, as that term is defined in section 40-2-127 (2), ~~C.R.S. If House~~
30 ~~Bill 10-1342 does not take effect, there shall be no qualified community~~
31 ~~locations in the service territories of investor-owned utilities.~~ OR A
32 COMMUNITY GEOTHERMAL GARDEN AS THAT TERM IS DEFINED IN SECTION
33 42-2-127.5 (2)."

34 Page 23, strike lines 14 through 17 and substitute "a community solar
35 garden as that term is defined in section 40-2-127 (2), ~~C.R.S. If House~~
36 ~~Bill 10-1342 does not take effect, there shall be no qualified community~~
37 ~~locations in the service territories of investor-owned utilities.~~ OR A
38 COMMUNITY GEOTHERMAL GARDEN AS THAT TERM IS DEFINED IN SECTION
39 42-2-127.5 (2).

40 **SECTION 15.** In Colorado Revised Statutes, 40-2-129, **amend**

1 (3) as follows:

2 **40-2-129. New resource acquisitions - factors in determination**
3 **- local employment - "best value" metrics - performance audit.**

4 (3) The provisions of this section regarding "best value" employment
5 metrics do not apply to projects involving retail distributed generation, as
6 defined in section 40-2-124 (1)(a)(VIII), ~~or~~ 40-2-127 (2)(b)(I)(B), OR
7 40-2-127.5 (2)(b)(II).

8 **SECTION 16.** In Colorado Revised Statutes, 40-9.5-106, **amend**
9 (2) as follows:

10 **40-9.5-106. Prohibited acts.** (2) No cooperative electric
11 association, as to rates, charges, service, or facilities or as to any other
12 matter, shall make or grant any preference or advantage to any
13 corporation or person or subject any corporation or person to any
14 prejudice or disadvantage. No cooperative electric association shall
15 establish or maintain any unreasonable difference as to rates, charges,
16 service, or facilities or as to any other matter, either between localities or
17 between any class of service. Notwithstanding section 40-6-108 (1)(b),
18 any complaint arising out of this subsection (2) signed by one or more
19 customers of such association shall be resolved by the public utilities
20 commission in accordance with the hearing and enforcement procedures
21 established in articles 6 and 7 of this title. A cooperative electric
22 association may approve any reasonable rate, charge, service,
23 classification, or facility that establishes a graduated rate for increased
24 energy consumption, for energy conservation and energy efficiency
25 purposes, by residential customers that is revenue-neutral for the class,
26 where revenue includes margins, expenses, riders, or charges as approved
27 by the cooperative electric association. The implementation of such rate,
28 charge, service, classification, or facility by a cooperative electric
29 association shall not be deemed to subject any person or corporation to
30 any prejudice, disadvantage, or undue discrimination. In adopting such
31 rate, a cooperative electric association shall give due consideration to the
32 impact of such rates on low-income customers. A cooperative electric
33 association may utilize a community energy fund as contemplated by
34 ~~section 40-2-127~~ SECTIONS 40-2-127 AND 40-2-127.5 for energy
35 efficiency, energy conservation, weatherization, and renewable energy
36 purposes. A cooperative electric association shall not apply such rate to
37 consumers that have single meters that record energy consumption for
38 combined residential and agricultural uses."

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