A BILL FOR AN ACT

CONCERNING THE AUTHORIZATION OF ECONOMIC DEVELOPMENT RATES TO BE CHARGED BY ELECTRIC UTILITIES TO QUALIFYING NONRESIDENTIAL CUSTOMERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill allows the public utilities commission to approve, and electric utilities to charge, economic development rates, which are lower rates for commercial and industrial users who locate or expand their operations in Colorado so as to increase the demand by at least 3 megawatts. To qualify for the economic development rates, these users...
must demonstrate that the cost of electricity is a critical consideration in their decision where to locate or expand their business and that the availability of lower rates is a substantial factor. The rates may be offered for up to 10 years.

The bill also authorizes the expansion of a voluntary renewable energy program or service offering as necessary to meet the needs of a commercial or industrial customer that makes a capital investment of $250 million or more, requires the expansion in order to remain as a customer of a utility, or is a new customer.

Utilities that offer economic development rates shall not cross-subsidize the economic development rates by raising rates on other customers, and a utility bears the burden of proof on this issue in any proceeding before the commission.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and determines that:

(a) The health, safety, and welfare of the people of our state are dependent upon the continued development and expansion of opportunities for employment in Colorado;

(b) The cost of electricity is an important consideration for private-sector businesses when deciding to locate or expand operations in Colorado, and an equally important consideration for many businesses in making these economic decisions is identifying states that allow for the customer's achievement of sustainability and other energy and environmental goals; and

(c) Electric utilities should be able to offer rates and programs that help attract these businesses and provide incentives for the expansion of existing business operations, thus helping to stimulate further economic development in Colorado.

(2) Therefore, the general assembly declares that it is in the public interest to allow public utilities to offer economic development rates in
accordance with this act.

SECTION 2. In Colorado Revised Statutes, 40-3-104.3, amend (5); and add (6), (7), and (8) as follows:

40-3-104.3. Manner of regulation - competitive responses - definitions - repeal. (5) Nothing in this section shall limit or restrict the commission's authority to regulate rates and charges, correct abuses, or prevent unjust discrimination except as specifically provided in this section.

(6) (a) Notwithstanding any other provision of this section, an investor-owned electric utility subject to rate regulation by the commission may offer economic development rates to a qualifying commercial or industrial customer.

(b) (I) An economic development rate approved pursuant to this section must be lower than the rate or rates that the qualifying commercial or industrial customer would be or currently is subject to under the utility's tariffs in effect at the time the qualifying commercial or industrial customer seeks to qualify for the economic development rate; except that an economic development rate must not be lower than the utility's marginal cost of providing service to the qualifying commercial or industrial customer.

(II) (A) The commission shall approve investor-owned utility tariffs that provide for implementation of an economic development rate and set a minimum and maximum amount for the rate consistent with subsection (6)(b)(I) of this section.

(B) Notwithstanding subsection (6)(b)(II)(A) of this section, the utility may negotiate and enter into agreements
(III) An investor-owned utility may offer an economic development rate to a qualifying commercial or industrial customer for up to ten years.

(c) (I) An authorization granted by the commission pursuant to this section must include such terms and conditions as the commission determines are necessary to ensure that the economic development rates or charges assessed to other customers do not subsidize the cost of providing service to qualifying commercial and industrial customers consistent with subsection (6)(b)(I) of this section, and that there is no other subsidization of such service. In developing the terms and conditions, the commission shall consider, among other things, the rates and charges assessed to the utility’s wholesale customers and the effects on other transmission system owners and users resulting from new transmission facilities constructed in connection with the utility’s expansion of an existing voluntary renewable energy program or service.
(II) In a Commission proceeding related to Economic Development rates authorized pursuant to subsection (6)(b) of this Section, the utility bears the burden of proof to establish that:

(A) The rates or charges assessed to other customers do not subsidize the cost of providing Economic Development rates to qualifying commercial or industrial customers;

(B) The rates of other regulated utility operations do not increase; and

(C) Other customers on the utility’s system do not experience a rate increase due to a rate or rates offered to a qualifying commercial or industrial customer pursuant to this Section.

(III) The Commission shall not impute to the utility revenues that would have been received from the qualifying commercial or industrial customer if the customer were being provided service under the corresponding rate for which it would have otherwise qualified under the utility’s tariffs.

(d) (I) An investor-owned utility may seek Commission approval to expand any voluntary renewable energy program or service offering through the acquisition of additional renewable generation capacity and energy to meet the current and projected demand of:

(A) Any commercial or industrial customer making a capital investment of two hundred fifty million dollars or more;
(B) Any commercial or industrial customer that requires such expansion to remain as a customer of that utility; or

(C) Any qualifying commercial or industrial customer entering the service territory of the utility.

(II) The commission shall approve, within sixty days, an expansion of an existing voluntary renewable energy program or service offering upon a showing by the utility that:

(A) There is not sufficient capacity and energy in the existing voluntary renewable energy program or service offering to satisfy the needs of the customer and the customer meets the requirements of subsection (6)(d)(I) of this section; and

(B) The availability of the program or service, either on its own or in combination with other incentives, is a substantial factor in the customer's decision to locate new or expand or retain existing business operations in Colorado.

(7) As used in subsection (6) of this section and this subsection (7):

(a) "Qualifying commercial or industrial customer":

(I) Means a utility customer that:

(A) Agrees to: Locate commercial or industrial operations in Colorado and add at least three megawatts of new load at a single location; or expand existing commercial or industrial operations in Colorado and add at least three megawatts of new load at a single location; and

(B) Demonstrates, to the satisfaction of the investor-owned utility, subject to review by the commission, that: The cost of electricity is a critical consideration in
DECIDING WHERE TO LOCATE NEW OR EXPAND EXISTING OPERATIONS; AND
THE AVAILABILITY OF ECONOMIC DEVELOPMENT RATES, EITHER ON THEIR
OWN OR IN COMBINATION WITH OTHER ECONOMIC DEVELOPMENT
INCENTIVES, IS A SUBSTANTIAL FACTOR IN THE CUSTOMER’S DECISION TO
LOCATE NEW OR EXPAND EXISTING BUSINESS OPERATIONS IN COLORADO.

(II) DOES NOT INCLUDE A CUSTOMER THAT AGREES TO RELOCATE
OR OTHERWISE TRANSFER ITS EXISTING LOAD OF AT LEAST THREE
MEGAWATTS FROM THE SERVICE TERRITORY OF ANOTHER PUBLIC UTILITY,
AS DEFINED IN SECTION 40-1-103, INTO THE SERVICE TERRITORY OF THE
UTILITY OFFERING ECONOMIC DEVELOPMENT RATES.

(b) "VOLUNTARY RENEWABLE ENERGY PROGRAM OR SERVICE
OFFERING" MEANS A PROGRAM OR OTHER SERVICE OFFERING APPROVED BY
THE COMMISSION THAT ALLOWS A COMMERCIAL OR INDUSTRIAL
CUSTOMER ACCESS TO ELIGIBLE ENERGY RESOURCES, AS THAT TERM IS
DEFINED IN SECTION 40-2-124 (1)(a), ON A VOLUNTARY BASIS, ON TERMS
AND CONDITIONS DEEMED NECESSARY BY THE COMMISSION.

(8) THIS SUBSECTION (8) AND SUBSECTIONS (6) AND (7) OF THIS
SECTION ARE REPEALED, EFFECTIVE JANUARY 1, 2028.

SECTION 3. Act subject to petition - effective date -
applicability. (1) This act takes effect January 1, 2019; except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
state constitution against this act or an item, section, or part of this act
within the ninety-day period after final adjournment of the general
assembly, then the act, item, section, or part will not take effect unless
approved by the people at the general election to be held in November
2018 and, in such case, will take effect on January 1, 2019, or on the date
of the official declaration of the vote thereon by the governor, whichever
is later.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.