

## CHAPTER 360

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**PUBLIC UTILITIES**

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**HOUSE BILL 18-1270**

BY REPRESENTATIVE(S) Hansen and Becker J., Arndt, Becker K., Bridges, Esgar, Ginal, Gray, Hamner, Kennedy, Kraft-Tharp, Lee, Lewis, Liston, Lontine, McLachlan, Melton, Michaelson Jenet, Pettersen, Roberts, Rosenthal, Valdez, Weissman, Wilson, Young, Duran, Coleman, Jackson, Winter;  
also SENATOR(S) Tate, Crowder, Fenberg, Jahn, Kefalas, Martinez Humenik, Priola.

**AN ACT**

**CONCERNING ENERGY STORAGE, AND, IN CONNECTION THEREWITH, REQUIRING THE PUBLIC UTILITIES COMMISSION TO ESTABLISH MECHANISMS FOR INVESTOR-OWNED ELECTRIC UTILITIES TO PROCURE ENERGY STORAGE SYSTEMS IF CERTAIN CRITERIA ARE SATISFIED.**

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

**SECTION 1. Short title.** The short title of this act is the "Energy Storage Procurement Act".

**SECTION 2.** In Colorado Revised Statutes, **add** part 2 to article 2 of title 40 as follows:

**PART 2  
ENERGY STORAGE SYSTEMS**

**40-2-201. Legislative declaration.** (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) ENERGY STORAGE SYSTEMS PROVIDE POTENTIAL OPPORTUNITIES TO:

(I) REDUCE SYSTEM COSTS;

(II) SUPPORT DIVERSIFICATION OF ENERGY RESOURCES; AND

(III) ENHANCE GRID SAFETY AND RELIABILITY;

(b) FOR THESE REASONS, IT IS IN THE PUBLIC INTEREST TO EXPLORE THE USE OF

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

ENERGY STORAGE SYSTEMS IN COLORADO AND TO INTEGRATE INTO THE PLANNING PROCESS MECHANISMS FOR THE PROCUREMENT OF ENERGY STORAGE SYSTEMS BY COLORADO'S ELECTRIC UTILITIES THROUGH EVALUATION AND PROCUREMENT METHODOLOGIES.

**40-2-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ELECTRIC UTILITY" MEANS AN INVESTOR-OWNED ELECTRIC UTILITY SUBJECT TO REGULATION UNDER ARTICLES 1 TO 7 OF THIS TITLE 40.

(2) "ENERGY STORAGE SYSTEM" MEANS COMMERCIALY AVAILABLE TECHNOLOGY THAT IS CAPABLE OF RETAINING ENERGY, STORING THE ENERGY FOR A PERIOD OF TIME, AND DELIVERING THE ENERGY AFTER STORAGE BY CHEMICAL, THERMAL, MECHANICAL, OR OTHER MEANS.

(3) "PROCURE" OR "PROCUREMENT" MEANS TO ACQUIRE BY OWNERSHIP OR BY A CONTRACTUAL RIGHT TO USE THE ENERGY FROM, OR THE CAPACITY OF, AN ENERGY STORAGE SYSTEM.

**40-2-203. Procurement mechanisms - determination by commission - rules.**

(1) ON OR BEFORE FEBRUARY 1, 2019, THE COMMISSION SHALL ESTABLISH, BY RULE, AS PART OF THE PLANNING PROCESS, MECHANISMS FOR THE PROCUREMENT OF ENERGY STORAGE SYSTEMS BY AN ELECTRIC UTILITY; EXCEPT THAT THESE MECHANISMS MUST NOT AFFECT ANY ONGOING RESOURCE ACQUISITIONS OR COMPETITIVE BIDDING PROCESSES THAT EXISTED ON FEBRUARY 1, 2018.

(2) IN ADOPTING THE RULES REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE COMMISSION SHALL USE ITS BEST EFFORTS TO CREATE CONDITIONS UNDER WHICH THE PROCUREMENT OF ENERGY STORAGE SYSTEMS BY AN ELECTRIC UTILITY WILL PROVIDE SYSTEMIC BENEFITS, INCLUDING:

(a) INCREASED INTEGRATION OF ENERGY INTO THE GRID OF THE ELECTRIC UTILITY;

(b) IMPROVED RELIABILITY OF THE GRID;

(c) A REDUCTION IN THE NEED FOR THE INCREASED GENERATION OF ELECTRICITY DURING PERIODS OF PEAK DEMAND; AND

(d) THE AVOIDANCE, REDUCTION, OR DEFERRAL OF INVESTMENT BY THE ELECTRIC UTILITY.

(3) PURSUANT TO SUBSECTION (1) OF THIS SECTION, AND IN CONSIDERATION OF ALL KNOWN AND MEASURABLE BENEFITS AND COSTS TO AN ELECTRIC UTILITY, THE COMMISSION SHALL ADOPT RULES:

(a) ESTABLISHING MECHANISMS FOR THE INCLUSION OF BENEFITS AND COSTS ASSOCIATED WITH ENERGY STORAGE SYSTEMS INTO THE PLANNING CONDUCTED BY ELECTRIC UTILITIES;

(b) REQUIRING ELECTRIC UTILITIES TO PROVIDE TO THE COMMISSION, AND

ALLOWING ELECTRIC UTILITIES TO PROVIDE TO THIRD PARTIES AS APPROVED BY THE COMMISSION, APPROPRIATE DATA AND ANALYSIS OF POTENTIAL STORAGE ACQUISITIONS IN THEIR PLANNING PROCESSES, INCLUDING POTENTIAL INTERCONNECTION POINTS. THE COMMISSION SHALL TREAT INFORMATION PROVIDED TO THE COMMISSION OR TO APPROVED THIRD PARTIES UNDER THIS SUBSECTION (3)(b) AS CONFIDENTIAL AND ENSURE THAT THE COMMISSION AND ANY APPROVED THIRD PARTY MANAGES THE INFORMATION IN ACCORDANCE WITH ALL COMMISSION RULES AND FEDERAL AND STATE LAWS CONCERNING CUSTOMER DATA AND PERSONALLY IDENTIFIABLE INFORMATION. IF THE COMMISSION FINDS THAT A THIRD PARTY HAS FAILED TO COMPLY WITH ANY APPLICABLE RULES, LAWS, OR CONDITIONS OF APPROVAL UNDER THIS SUBSECTION (3)(b), THE COMMISSION MAY DEEM THAT PARTY INELIGIBLE TO BID OR DEVELOP STORAGE SYSTEMS IN THE SUBSEQUENT ELECTRIC RESOURCE PLAN.

(c) ENSURING THAT ANY STORAGE SYSTEM PROJECT ADDED TO THE ELECTRIC GRID WILL NOT COMPROMISE THE SECURITY, SAFETY, OR RELIABILITY OF THE ELECTRIC GRID OR ANY PART OF THE ELECTRIC GRID;

(d) ESTABLISHING THAT AN ENERGY STORAGE SYSTEM MAY BE OWNED BY AN ELECTRIC UTILITY OR BY ANY OTHER PERSON;

(e)(I) ESTABLISHING REQUIREMENTS FOR THE FILING BY AN ELECTRIC UTILITY OF ACQUISITION PLANS CONTAINING AN ANALYSIS OF THE INTEGRATION AND USE OF ELECTRIC STORAGE SYSTEMS.

(II) THE REQUIREMENTS UNDER THIS SUBSECTION (3)(e) MUST INCLUDE THE REQUIREMENT THAT AN ELECTRIC UTILITY PROVIDE IN ITS ACQUISITION PLANS:

(A) MODELING ASSUMPTIONS USED TO ASSESS THE COSTS AND BENEFITS OF ENERGY STORAGE SYSTEMS; AND

(B) MODEL CONTRACTS FOR PROCUREMENT OF ENERGY STORAGE SYSTEMS.

(f) REQUIRING THE ELECTRIC UTILITY TO INCLUDE SUCH OTHER INFORMATION AS THE COMMISSION MAY REQUIRE IN ITS DOCUMENTATION RELATING TO PLANNING.

(4) ON OR BEFORE MAY 1, 2019, ELECTRIC UTILITIES MAY FILE APPLICATIONS FOR RATE-BASED PROJECTS, NOT TO EXCEED FIFTEEN MEGAWATTS OF CAPACITY, FOR ENERGY STORAGE SYSTEMS. NOTHING IN THIS SECTION IS INTENDED TO PROHIBIT OR DETER COST-EFFECTIVE STORAGE DEPLOYMENT.

**SECTION 3.** In Colorado Revised Statutes, 40-2-101, **amend** (3)(b)(I) as follows:

**40-2-101. Creation - appointment - term - subject to termination - repeal of part.** (3) (b) (I) This ~~article~~ PART 1 is repealed, effective ~~July~~ SEPTEMBER 1, 2019.

**SECTION 4. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); 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 such period, 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 the date of the official declaration of the vote thereon by the governor.

Approved: June 1, 2018