A BILL FOR AN ACT

CONCERNING ADOPTION OF A RENEWABLE NATURAL GAS STANDARD.

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 requires the public utilities commission to adopt by rule, no later than July 31, 2021, renewable natural gas programs for large natural gas utilities (those that have at least 200,000 customer accounts in Colorado) and small natural gas utilities (those that have fewer than 200,000 customer accounts in Colorado). The rules must include reporting requirements and a process for natural gas utilities to fully recover prudently incurred costs associated with the large and small renewable natural gas programs.
"Renewable natural gas" is defined to mean any of the following products processed to meet pipeline quality standards or transportation fuel-grade requirements:

- Biogas that is blended with, or substituted for, geologic natural gas;
- Hydrogen gas derived from renewable energy sources; or
- Methane gas derived from any combination of biogas; hydrogen gas or carbon oxides derived from renewable energy sources; waste carbon dioxide; coalbed methane resulting from human activity; naturally occurring coalbed deposits; a municipal solid waste landfill; waste tire or municipal solid waste pyrolysis; or biogas recovery from manure management systems and anaerobic digesters.

If a large natural gas utility's total incremental annual cost to meet the targets of the large renewable natural gas program exceeds 5% of the large natural gas utility's total revenue requirement for a particular year, the large natural gas utility shall not make additional qualified investments under the large renewable natural gas program for that year without approval from the commission. The bill establishes the following portfolio targets for the percentage of gas purchased by large natural gas utilities that is renewable natural gas:

- By January 1, 2025, at least 5% must be renewable natural gas;
- By January 1, 2030, at least 10% must be renewable natural gas; and
- On and after January 1, 2035, at least 15% must be renewable natural gas.

Small natural gas utilities may opt in to the small renewable natural gas program as established by the commission by rule. The rule must include a rate cap limiting the small natural gas utility's costs of procuring renewable natural gas from third parties and qualified investments in renewable natural gas infrastructure.

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

SECTION 1. In Colorado Revised Statutes, add 40-2-124.5 as follows:

40-2-124.5. Renewable natural gas resource standard - legislative declaration - definitions - rules. (1) The general assembly hereby:

(a) Finds that renewable natural gas provides benefits to
NATURAL GAS UTILITY CUSTOMERS AND TO THE PUBLIC;

(b) DETERMINES THAT THE DEVELOPMENT OF RENEWABLE
NATURAL GAS RESOURCES SHOULD BE ENCOURAGED TO SUPPORT A
SMOOTH TRANSITION TO A LOW-CARBON ENERGY ECONOMY IN COLORADO;

AND

(c) DECLARES THAT:

(I) NATURAL GAS UTILITIES CAN REDUCE EMISSIONS FROM THE
DIRECT USE OF NATURAL GAS BY PROCURING RENEWABLE NATURAL GAS
AND INVESTING IN RENEWABLE NATURAL GAS INFRASTRUCTURE;

(II) REGULATORY GUIDELINES FOR THE PROCUREMENT OF
RENEWABLE NATURAL GAS AND INVESTMENTS IN RENEWABLE NATURAL
GAS INFRASTRUCTURE SHOULD FACILITATE THESE PROCUREMENTS AND
INVESTMENTS WHILE ALSO PROTECTING COLORADO CONSUMERS; AND

(III) RENEWABLE NATURAL GAS SHOULD BE INCLUDED IN THE
BROADER SET OF LOW-CARBON RESOURCES THAT MAY LEVERAGE AND
DECARBONIZE THE EXISTING NATURAL GAS SYSTEM TO REDUCE
GREENHOUSE GAS EMISSIONS.

(2) AS USED IN THIS SECTION:

(a) "BIOGAS" MEANS A MIXTURE OF CARBON DIOXIDE AND
HYDROCARBONS, PRIMARILY METHANE GAS, RELEASED FROM THE
BIOLICAL COMPOSITION OF ORGANIC MATERIALS.

(b) "BIOMASS" HAS THE MEANING ESTABLISHED IN SECTION
40-2-124 (1)(a)(I).

(c) "LARGE NATURAL GAS UTILITY" MEANS A NATURAL GAS
UTILITY WITH TWO HUNDRED THOUSAND OR MORE CUSTOMER ACCOUNTS
IN COLORADO.

(d) "NATURAL GAS UTILITY" MEANS A PUBLIC UTILITY PROVIDING
NATURAL GAS SERVICE TO CUSTOMERS.

(e) (I) "QUALIFIED INVESTMENT" MEANS ANY CAPITAL INVESTMENT IN RENEWABLE NATURAL GAS INFRASTRUCTURE INCURRED BY A NATURAL GAS UTILITY FOR THE PURPOSE OF PROVIDING NATURAL GAS SERVICE UNDER A RENEWABLE NATURAL GAS PROGRAM DESCRIBED IN SUBSECTION (4) OR (5) OF THIS SECTION.

(II) "QUALIFIED INVESTMENT" DOES NOT INCLUDE AN INVESTMENT IN A BIOGAS PRODUCTION PROJECT BY:

(A) A SINGLE LIVESTOCK OPERATION THAT PRODUCES MORE THAN TWO HUNDRED FIFTY STANDARD CUBIC FEET OF BIOGAS PER MINUTE; OR

(B) A SINGLE BIOGAS SOURCE THAT PRODUCES MORE THAN ONE THOUSAND STANDARD CUBIC FEET OF BIOGAS PER MINUTE.

(f) "RENEWABLE ENERGY SOURCES" MEANS:

(I) RENEWABLE ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124 (1)(a)(VII); AND

(II) BIOGAS.

(g) "RENEWABLE NATURAL GAS" MEANS ANY OF THE FOLLOWING PRODUCTS PROCESSED TO MEET PIPELINE QUALITY STANDARDS OR TRANSPORTATION FUEL-GRADE REQUIREMENTS:

(I) BIOGAS THAT IS BLENDED WITH, OR SUBSTITUTED FOR, GEOLOGIC NATURAL GAS;

(II) HYDROGEN GAS DERIVED FROM RENEWABLE ENERGY SOURCES; OR

(III) METHANE GAS DERIVED FROM ANY COMBINATION OF:

(A) BIOGAS;

(B) HYDROGEN GAS OR CARBON OXIDES DERIVED FROM RENEWABLE ENERGY SOURCES;
(C) Waste carbon dioxide;
(D) Coalbed methane resulting from human activity;
(E) Naturally occurring coalbed deposits;
(F) A municipal solid waste landfill;
(G) Waste tire or municipal solid waste pyrolysis; or
(H) Biogas recovery from manure management systems and anaerobic digesters.

(h) "Renewable natural gas infrastructure" means all equipment and facilities for the production, processing, pipeline interconnection, and distribution of renewable natural gas to be furnished to Colorado customers.

(i) "Small natural gas utility" means a natural gas utility with fewer than two hundred thousand customer accounts in Colorado.

(3) (a) The commission shall adopt by rule:
(I) A large renewable natural gas program for large natural gas utilities pursuant to subsection (4) of this section; and

(II) A small renewable natural gas program for small natural gas utilities pursuant to subsection (5) of this section.

(b) Rules adopted by the commission under this section must include:
(I) Reporting requirements under the large renewable natural gas program and the small renewable natural gas program; and

(II) Establishing a process for natural gas utilities to fully recover prudently incurred costs associated with the
LARGE RENEWABLE NATURAL GAS PROGRAM AND THE SMALL RENEWABLE NATURAL GAS PROGRAM.

(c) RULES ADOPTED BY THE COMMISSION UNDER THIS SUBSECTION (3) MUST NOT PROHIBIT AN AFFILIATED INTEREST OF A LARGE NATURAL GAS UTILITY OR OF A SMALL NATURAL GAS UTILITY FROM MAKING A CAPITAL INVESTMENT IN A BIOGAS PRODUCTION PROJECT IF THE AFFILIATED INTEREST IS NOT A PUBLIC UTILITY.

(4)(a) A LARGE NATURAL GAS UTILITY THAT PARTICIPATES IN THE LARGE RENEWABLE NATURAL GAS PROGRAM ADOPTED BY RULE BY THE COMMISSION PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION MAY MAKE QUALIFIED INVESTMENTS AND PROCURE RENEWABLE NATURAL GAS FROM THIRD PARTIES TO MEET THE FOLLOWING PORTFOLIO TARGETS FOR THE PERCENTAGE OF GAS PURCHASED BY THE LARGE NATURAL GAS UTILITY FOR DISTRIBUTION TO RETAIL NATURAL GAS CUSTOMERS IN COLORADO THAT IS RENEWABLE NATURAL GAS:

(I) BY JANUARY 1, 2025, AT LEAST FIVE PERCENT MUST BE RENEWABLE NATURAL GAS;

(II) BY JANUARY 1, 2030, AT LEAST TEN PERCENT MUST BE RENEWABLE NATURAL GAS; AND

(III) ON AND AFTER JANUARY 1, 2035, AT LEAST FIFTEEN PERCENT MUST BE RENEWABLE NATURAL GAS.

(b) THE COMMISSION SHALL ADOPT RATE-MAKING MECHANISMS THAT ENSURE THE RECOVERY OF ALL PRUDENTLY INCURRED COSTS THAT CONTRIBUTE TO THE LARGE NATURAL GAS UTILITY’S MEETING THE TARGETS SET FORTH IN SUBSECTION (4)(a) OF THIS SECTION. PURSUANT TO THE RATE-MAKING MECHANISMS ADOPTED UNDER THIS SUBSECTION (4)(b):
(I) Qualified investments and operating costs associated with qualified investments that contribute to the large natural gas utility meeting the targets set forth in subsection (4)(a) of this section may be recovered by means of an automatic adjustment clause.

(II) Costs of procuring renewable natural gas from third parties that contribute to the large natural gas utility meeting the targets set forth in subsection (4)(a) of this section may be recovered by means of an automatic adjustment clause or another recovery mechanism authorized by rule.

(c) When a large natural gas utility makes a qualified investment in the production of renewable natural gas, the costs associated with the qualified investment include the cost of capital established by the commission in the large natural gas utility's most recent general rate case.

(d) Before making a qualified investment in biogas production that is upstream of conditioning equipment, pipeline interconnection, or gas cleaning, a large natural gas utility shall engage in a competitive bidding process.

(e) If the large natural gas utility's total incremental annual cost to meet the targets of the large renewable natural gas program exceeds five percent of the large natural gas utility's total revenue requirement for a particular year, the large natural gas utility shall not make additional qualified investments under the large renewable natural gas program for that year without approval from the commission.

(f) The total incremental annual cost to meet the targets
OF THE LARGE RENEWABLE NATURAL GAS PROGRAM MUST ACCOUNT FOR:

(I) ANY VALUE RECEIVED BY A LARGE NATURAL GAS UTILITY UPON
RESALE OF RENEWABLE NATURAL GAS, INCLUDING ANY ENVIRONMENTAL
CREDITS THAT THE RENEWABLE NATURAL GAS PRODUCER Chooses TO
INCLUDE WITH THE SALE OF THE RENEWABLE NATURAL GAS TO THE LARGE
NATURAL GAS UTILITY; AND

(II) ANY SAVINGS ACHIEVED THROUGH AVOIDANCE OF
CONVENTIONAL GAS PURCHASES OR DEVELOPMENT, SUCH AS AVOIDED
PIPELINE COSTS OR CARBON COSTS.

(5) (a) UPON A FILING BY A SMALL NATURAL GAS UTILITY TO
PARTICIPATE IN THE SMALL RENEWABLE NATURAL GAS PROGRAM ADOPTED
BY RULE BY THE COMMISSION UNDER SUBSECTION (3)(a)(II) OF THIS
SECTION, THE COMMISSION SHALL ESTABLISH A RATE CAP LIMITING THE
SMALL NATURAL GAS UTILITY'S COSTS OF PROCURING RENEWABLE
NATURAL GAS FROM THIRD PARTIES AND QUALIFIED INVESTMENTS IN
RENEWABLE NATURAL GAS INFRASTRUCTURE. THE RATE CAP MUST BE
EXPRESSED AS A PERCENTAGE OF THE SMALL NATURAL GAS UTILITY'S
TOTAL REVENUE REQUIREMENT AS APPROVED BY THE COMMISSION IN THE
SMALL NATURAL GAS UTILITY'S MOST RECENT GENERAL RATE CASE. FOR
THE PURPOSE OF ESTABLISHING A RATE CAP UNDER THIS SUBSECTION
(5)(a), THE COMMISSION SHALL ACCOUNT FOR:

(I) ANY VALUE RECEIVED BY THE SMALL NATURAL GAS UTILITY
UPON RESALE OF RENEWABLE NATURAL GAS, INCLUDING ANY
ENVIRONMENTAL CREDITS THAT THE RENEWABLE NATURAL GAS
PRODUCER Chooses TO INCLUDE WITH THE SALE OF RENEWABLE NATURAL
GAS TO THE SMALL NATURAL GAS UTILITY; AND

(II) ANY SAVINGS ACHIEVED THROUGH AVOIDANCE OF
CONVENTIONAL GAS PURCHASES OR DEVELOPMENT, SUCH AS AVOIDED
PIPELINE COSTS OR CARBON COSTS.

(b) (I) A FILING BY A SMALL NATURAL GAS UTILITY UNDER
SUBSECTION (5)(a) OF THIS SECTION MUST INCLUDE, BUT NEED NOT BE
LIMITED TO:

(A) A PROPOSAL TO PROCURE A TOTAL VOLUME OF RENEWABLE
NATURAL GAS OVER A SPECIFIC PERIOD; AND

(B) IDENTIFICATION OF THE QUALIFIED INVESTMENTS THAT THE
SMALL NATURAL GAS UTILITY MAY MAKE IN RENEWABLE NATURAL GAS
INFRASTRUCTURE.

(II) A SMALL NATURAL GAS UTILITY MAY FROM TIME TO TIME
REVISE THE FILING SUBMITTED TO THE COMMISSION UNDER THIS
SUBSECTION (5).

(c) ANY COSTS PRUDENTLY INCURRED BY A SMALL NATURAL GAS
UTILITY PURSUANT TO A FILING SUBMITTED UNDER THIS SUBSECTION (5)
MAY BE RECOVERED BY MEANS OF AN AUTOMATIC ADJUSTMENT CLAUSE.

(d) WHEN A SMALL NATURAL GAS UTILITY MAKES A QUALIFIED
INVESTMENT IN THE PRODUCTION OF RENEWABLE NATURAL GAS, THE
COSTS ASSOCIATED WITH THE QUALIFIED INVESTMENT INCLUDE THE COST
OF CAPITAL ESTABLISHED BY THE COMMISSION IN THE SMALL NATURAL
GAS UTILITY’S MOST RECENT GENERAL RATE CASE.

(6) THE COMMISSION SHALL ADOPT RULES PURSUANT TO
SUBSECTIONS (3) TO (5) OF THIS SECTION NO LATER THAN JULY 31, 2021.

SECTION 2. Act subject to petition - effective date -
applicability. (1) 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 5, 2020, if adjournment sine die is on May 6,
2020); 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 2020 and, in such case, will take effect on the
date of the official declaration of the vote thereon by the governor.

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