

CHAPTER 52

PUBLIC UTILITIES

HOUSE BILL 21-1052

BY REPRESENTATIVE(S) McKean, Amabile, Arndt, Bird, Catlin, Duran, Esgar, Geitner, Gray, Lynch, McCormick, Michaelson Jenet, Mullica, Ortiz, Pelton, Pico, Rich, Snyder, Titone, Valdez A., Van Beber, Will, Woog; also SENATOR(S) Woodward, Bridges, Buckner, Cooke, Coram, Donovan, Fields, Gardner, Ginal, Hisey, Holbert, Kirkmeyer, Kolker, Liston, Lundeen, Moreno, Priola, Rankin, Scott, Simpson, Smallwood, Sonnenberg, Garcia.

AN ACT

CONCERNING THE INCLUSION OF PUMPED HYDROELECTRIC ENERGY GENERATION IN THE DEFINITION OF "ELIGIBLE ENERGY RESOURCES" FOR PURPOSES OF MEETING COLORADO'S RENEWABLE ENERGY STANDARD.

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

SECTION 1. In Colorado Revised Statutes, 40-2-124, **amend** (1)(a) introductory portion and (1)(a)(VI) as follows:

40-2-124. Renewable energy standards - qualifying retail and wholesale utilities - definitions - net metering - legislative declaration. (1) Each provider of retail electric service in the state of Colorado, other than municipally owned utilities that serve forty thousand customers or fewer, is a qualifying retail utility. Each qualifying retail utility, with the exception of cooperative electric associations that have voted to exempt themselves from commission jurisdiction pursuant to section 40-9.5-104 and municipally owned utilities, is subject to the rules established under this article 2 by the commission. No additional regulatory authority is provided to the commission other than that specifically contained in this section. In accordance with article 4 of title 24, the commission shall revise or clarify existing rules to establish the following:

(a) Definitions of eligible energy resources that can be used to meet the standards. "Eligible energy resources" means recycled energy and renewable energy resources. In addition, resources using coal mine methane and synthetic gas produced by pyrolysis of municipal solid waste are eligible energy resources if the commission determines that the electricity generated by those resources is greenhouse gas neutral. The commission shall determine, following an evidentiary

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hearing, the extent to which such electric generation technologies utilized in an optional pricing program may be used to comply with this standard. A fuel cell using hydrogen derived from an eligible energy resource is also an eligible electric generation technology. Fossil and nuclear fuels and their derivatives are not eligible energy resources. ~~For purposes of AS USED IN this section:~~

(VI) (A) "Recycled energy" means energy produced by a generation unit with a nameplate capacity of not more than fifteen megawatts that EITHER converts the otherwise lost energy from the heat from exhaust stacks or pipes to electricity and ~~that does not combust additional fossil fuel OR IS PUMPED HYDROELECTRICITY GENERATION THAT DOES NOT COMBUST FOSSIL FUEL TO PUMP WATER; IS NOT LOCATED ON A NATURAL WATERWAY; INCLUDES MEASURES TO PREVENT FISH MORTALITY IN THE FACILITY; DOES NOT IMPACT ANY DECREED IN-STREAM FLOW; AND DOES NOT CAUSE ANY VIOLATION OF STATE WATER QUALITY STANDARDS WHEN OPERATED.~~

(B) SUBJECT TO SUBSECTION (1)(a)(VI)(A) OF THIS SECTION, "recycled energy" does not include energy produced by any system that uses energy, lost or otherwise, from a process whose primary purpose is the generation of electricity, including, without limitation, any process involving engine-driven generation. ~~or pumped hydroelectricity generation.~~

SECTION 2. 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; 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 22, 2021