

CHAPTER 102

PUBLIC UTILITIES

HOUSE BILL 94-1130

BY REPRESENTATIVES Strom, Blue, Dyer, Eisenach, Friednash, Gordon, Greenwood, Hagedorn, Keller, Knox, Linkhart, Lyle, Pierson, Reeves, Rupert, Snyder, and Williams;
also SENATORS Traylor, Bishop, Blickensderfer, Casey, Cassidy, Feeley, Gallagher, Johnson, Mares, Martinez, Mendez, Norton, Peterson, L. Powers, Ruddick, Thiebaut, and Wham.

AN ACT**CONCERNING THE DEVELOPMENT OF RENEWABLE ENERGY SOURCES.**

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

SECTION 1. Legislative declaration. The general assembly finds and declares that:

(1) Renewable energy is an inexhaustible, indigenous resource that is abundant in Colorado;

(2) Development of domestic renewable energy sources can simultaneously reduce the nation's dependence on foreign oil reserves, reduce pollution, decrease overall energy costs, and stimulate employment in clean, sustainable industries, thus benefiting both Colorado and the nation as a whole;

(3) Renewable energy development in Colorado will create greater fuel diversity in the state's mix of energy resources, thereby tending to stabilize prices, supplies, and employment in the energy industry, as well as bringing environmental benefits to the production of electricity;

(4) The cost of renewable energy technology has declined and continues to decline due to recent improvements in manufacturing techniques, expanded markets, and the economies of scale;

(5) Renewable energy research facilities at Colorado colleges and universities benefit from increased renewable energy development in the state;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(6) The Colorado Public Utilities Commission ("commission"), through its regulation of investor-owned utilities in Colorado, periodically reviews the mix of renewable energy resources in such utilities' portfolios;

(7) There is at present no specific statutory authority for the commission to consider the value of renewable energy development in setting and reviewing the rates of regulated utilities;

(8) Therefore, it is appropriate that renewable energy development be included among the factors the commission may and should consider in the course of hearings on tariff rates of regulated utilities.

SECTION 2. 40-1-102, Colorado Revised Statutes, 1993 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-1-102. Definitions. As used in articles 1 to 7 of this title, unless the context otherwise requires:

(6) "RENEWABLE ENERGY" MEANS USEFUL ELECTRICAL, THERMAL, OR MECHANICAL ENERGY CONVERTED DIRECTLY OR INDIRECTLY FROM RESOURCES OF CONTINUOUS ENERGY FLOW OR THAT ARE PERPETUALLY REPLENISHED AND WHOSE UTILIZATION IS SUSTAINABLE INDEFINITELY. THE TERM INCLUDES, WITHOUT LIMITATION, SUNLIGHT, THE WIND, GEOTHERMAL ENERGY, HYDRODYNAMIC FORCES, AND ORGANIC MATTER AVAILABLE ON A RENEWABLE BASIS SUCH AS FOREST RESIDUES, AGRICULTURAL CROPS AND WASTES, WOOD AND WOOD WASTES, ANIMAL WASTES, LIVESTOCK OPERATION RESIDUE, AQUATIC PLANTS, AND MUNICIPAL WASTES.

SECTION 3. 40-3-111 (1) and (1.5), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

40-3-111. Rates determined after hearing. (1) Whenever the commission, after a hearing upon its own motion or upon complaint, finds that the rates, tolls, fares, rentals, charges, or classifications demanded, observed, charged, or collected by any public utility for any service, product, or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices, or contracts affecting such rates, fares, tolls, rentals, charges, or classifications are unjust, unreasonable, discriminatory, or preferential, or in any way violate any provision of law, or that such rates, fares, tolls, rentals, charges, or classifications are insufficient, the commission shall determine the just, reasonable, or sufficient rates, fares, tolls, rentals, charges, rules, regulations, practices, or contracts to be thereafter observed and in force and shall fix the same by order. In making such determination, the commission may consider current, future, or past test periods or any reasonable combination thereof and any other factors which may affect the sufficiency or insufficiency of such rates, fares, tolls, rentals, charges, or classifications during the period the same may be in effect, and may consider any factors which influence an adequate supply of energy, ~~and any factors which encourage energy conservation, OR ENCOURAGE RENEWABLE ENERGY DEVELOPMENT.~~

(1.5) (a) If the commission considers environmental effects when comparing the costs and benefits of potential utility resources, it shall also make findings and give

due consideration to the effect that acquiring such resources will have on the state's economy and employment, including, but not limited to, the effect on the mining, ELECTRIC, natural gas, energy efficiency, and renewable resource industries.

(b) IF THE COMMISSION CONSIDERS FACTORS WHICH ENCOURAGE RENEWABLE ENERGY DEVELOPMENT, IT SHALL ALSO MAKE FINDINGS AND GIVE DUE CONSIDERATION TO THE EFFECT OF SUCH FACTORS ON THE UTILITY'S ABILITY TO RECOVER ITS CAPITAL AND OPERATING COSTS.

SECTION 4. 40-6-111 (2) (a), Colorado Revised Statutes, 1993 Repl. Vol., is amended, and the said 40-6-111 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

40-6-111. Hearing on schedules - suspension - new rates - rejection of tariffs. (2) (a) If a hearing is held thereon, whether completed before or after the expiration of the period of suspension, the commission shall establish the rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules, or regulations proposed, in whole or in part, or others in lieu thereof, which it finds just and reasonable. In making such finding in the case of a public utility other than a rail carrier, the commission may consider current, future, or past test periods or any reasonable combination thereof and any other factors which may affect the sufficiency or insufficiency of such rates, fares, tolls, rentals, charges, or classifications during the period the same may be in effect and may consider any factors which influence an adequate supply of energy, ~~and any factors which encourage energy conservation, OR ENCOURAGE RENEWABLE ENERGY DEVELOPMENT.~~ All such rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules, or regulations not so suspended, on the effective date thereof, which, in the case of a public utility other than a rail carrier, shall not be less than thirty days from the time of filing the same with the commission, or of such lesser time as the commission may grant, shall go into effect and be the established and effective rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules, and regulations subject to the power of the commission, after a hearing on its own motion or upon complaint, as provided in this article, to alter or modify the same.

(c) IF THE COMMISSION CONSIDERS FACTORS WHICH ENCOURAGE RENEWABLE ENERGY DEVELOPMENT, IT SHALL ALSO MAKE FINDINGS AND GIVE DUE CONSIDERATION TO THE EFFECT OF SUCH FACTORS ON THE UTILITY'S ABILITY TO RECOVER ITS CAPITAL AND OPERATING COSTS.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 8, 1994