

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 16, 2019

Committee on Transportation & Energy.

After consideration on the merits, the Committee recommends the following:

SB19-236 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

- 1 Amend printed bill, page 3, lines 8 and 9, strike "AND THE DIVISION OF
- 2 PUBLIC UTILITIES ARE" and substitute "IS".
- 3 Page 4, lines 7 and 8, strike "AND THE DIVISION OF PUBLIC UTILITIES".
- 4 Page 4, strike lines 9 through 27.
- 5 Strike pages 5 and 6.
- 6 Page 7, strike lines 1 through 6.
- 7 Renumber succeeding sections accordingly.
- 8 Page 7, strike lines 24 through 27 and substitute:
 - 9 "(1) THE COMMISSION SHALL PROMULGATE RULES ESTABLISHING THE
 - 10 FILING OF A DISTRIBUTION SYSTEM PLAN. THE COMMISSION'S RULES MUST:
 - 11 (a) DEFINE THE FOLLOWING TERMS:
 - 12 (I) DISTRIBUTED ENERGY RESOURCES THAT INCLUDE:
 - 13 (A) DISTRIBUTED RENEWABLE ELECTRIC GENERATION;
 - 14 (B) ENERGY STORAGE SYSTEMS;
 - 15 (C) MICROGRIDS;
 - 16 (D) ENERGY EFFICIENCY MEASURES; AND
 - 17 (E) DEMAND RESPONSE MEASURES; AND
 - 18 (II) NON-WIRES ALTERNATIVES;

1 (b) DEVELOP A METHODOLOGY FOR EVALUATING THE NET
2 BENEFITS TO CUSTOMERS USING DISTRIBUTED ENERGY RESOURCES AS
3 NON-WIRES ALTERNATIVES;

4 (c) DIRECT EACH QUALIFYING RETAIL UTILITY TO FILE A
5 DISTRIBUTION SYSTEM PLAN THAT AT A MINIMUM INCLUDES:

6 (I) INFORMATION REGARDING:

7 (A) SYSTEM AND SUBSTATION HISTORICAL DATA;

8 (B) PEAK DEMAND;

9 (C) ADOPTION OF DISTRIBUTED ENERGY RESOURCES; AND

10 (D) DISTRIBUTION SYSTEM INVESTMENTS;

11 (II) A DESCRIPTION OF THE QUALIFYING RETAIL UTILITY'S
12 ANTICIPATED NEW DISTRIBUTION SYSTEM EXPANSION INVESTMENTS FOR
13 THE YEARS COVERED BY THE PLAN, INCLUDING A GENERAL DISCUSSION OF
14 THE QUALIFYING RETAIL UTILITY'S PROCESS TO EVALUATE THE PLAN'S
15 FEASIBILITY AND THE ECONOMIC IMPACTS OF POTENTIALLY USING
16 NON-WIRES ALTERNATIVES FOR THE PROJECTS. THE QUALIFYING RETAIL
17 UTILITY SHALL PROVIDE ESTIMATES OF THE YEAR IN WHICH PEAK DEMAND
18 GROWTH OR DISTRIBUTED ENERGY RESOURCE GROWTH MAY REQUIRE
19 THESE NEW NON-WIRES ALTERNATIVE PROJECTS;

20 (III) TO PROVIDE NEW ELECTRIC SERVICE TO ANY PLANNED NEW
21 NEIGHBORHOODS OR HOUSING DEVELOPMENTS EXPECTED TO INCLUDE
22 MORE THAN TEN THOUSAND NEW RESIDENCES, A DESCRIPTION OF THE
23 QUALIFYING RETAIL UTILITY'S CONSIDERATION OF NON-WIRES
24 ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES
25 UNDER UTILITY PROGRAMS;

26 (IV) AN UPDATED LOAD FORECAST THAT INCLUDES ANY NEW LOAD
27 RESULTING FROM PROJECTED OR FORECASTED GROWTH FROM BENEFICIAL
28 ELECTRIFICATION PROGRAMS;

29 (V) A FORECAST OF THE GROWTH OF DISTRIBUTED ENERGY
30 RESOURCES FOR THE YEARS COVERED BY THE PLAN;

31 (VI) A HIGH-LEVEL SUMMARY OF ITS PLANNING PROCESS FOR
32 ADDRESSING CYBER AND PHYSICAL SECURITY RISKS. AS PART OF THE
33 SUMMARY, THE QUALIFYING RETAIL UTILITY NEED NOT REPORT ANY
34 CONFIDENTIAL, PROPRIETARY, OR OTHER INFORMATION IN THE PLAN THAT
35 COULD IN ANY WAY COMPROMISE OR DECREASE THE QUALIFYING RETAIL
36 UTILITY'S ABILITY TO PREVENT, MITIGATE, OR RECOVER FROM POTENTIAL
37 SYSTEM DISRUPTIONS CAUSED BY WEATHER EVENTS, PHYSICAL EVENTS,
38 OR CYBER ATTACKS.

39 (VII) ANY OTHER INFORMATION THAT THE COMMISSION DEEMS
40 RELEVANT.

41 (2) THE COMMISSION SHALL APPROVE A QUALIFYING RETAIL

1 UTILITY'S DISTRIBUTION SYSTEM PLAN IF THE COMMISSION FINDS THE PLAN
2 TO BE IN THE PUBLIC INTEREST.

3 (3)(a) IF A QUALIFYING RETAIL UTILITY IS REQUIRED TO SPEND ON
4 DISTRIBUTION INFRASTRUCTURE TO ACCOMPLISH ITS DISTRIBUTION
5 SYSTEM PLAN, THE COST MUST BE PROPOSED AND CONSIDERED BY THE
6 COMMISSION AS PART OF THE QUALIFYING RETAIL UTILITY'S NEXT
7 GENERAL RATE CASE.

8 (b) THE COMMISSION MAY PRESUME THAT ANY SPENDING OUTSIDE
9 THE ORDINARY COURSE OF BUSINESS THAT THE QUALIFYING RETAIL
10 UTILITY IDENTIFIES FOR DISTRIBUTION INFRASTRUCTURE IS PRUDENT IF
11 THE COMMISSION DETERMINES THAT THE QUALIFYING RETAIL UTILITY'S
12 RATEPAYERS WOULD REALIZE NET BENEFITS FROM THE DISTRIBUTION
13 INFRASTRUCTURE AND THAT THE ASSOCIATED COSTS ARE JUST AND
14 REASONABLE.

15 (c) TO EVALUATE THE SUCCESS OF ANY INVESTMENT AUTHORIZED
16 PURSUANT TO A QUALIFYING RETAIL UTILITY'S DISTRIBUTION SYSTEM
17 PLAN, THE COMMISSION MAY ADOPT CRITERIA, BENCHMARKS, OR
18 ACCOUNTABILITY MECHANISMS WITH WHICH THE QUALIFYING RETAIL
19 UTILITY MUST COMPLY.

20 (4) AS USED IN THIS SECTION, "QUALIFYING RETAIL UTILITY" HAS
21 THE MEANING DESCRIBED IN SECTION 40-2-124 (1); EXCEPT THAT THE
22 TERM DOES NOT MEAN A MUNICIPALLY OWNED UTILITY OR A COOPERATIVE
23 ELECTRIC ASSOCIATION."

24 Strike page 8.

25 Page 9, strike lines 1 through 23.

26 Page 13, after line 8 insert:

27 "SECTION 7. In Colorado Revised Statutes, add 40-3-116 and
28 40-3-117 as follows:

29 **40-3-116. Performance-based rate-making - investigation -**
30 **report - repeal.** (1) THE COMMISSION SHALL CONDUCT AN
31 INVESTIGATION OF FINANCIAL PERFORMANCE-BASED INCENTIVES AND
32 PERFORMANCE-BASED METRIC TRACKING TO IDENTIFY MECHANISMS THAT
33 MAY SERVE TO ALIGN REGULATED UTILITY OPERATIONS, EXPENDITURES,
34 AND INVESTMENTS WITH PUBLIC BENEFIT GOALS INCLUDING SAFETY,
35 RELIABILITY, COST EFFICIENCY, EMISSIONS REDUCTIONS, AND EXPANSION
36 OF DISTRIBUTED ENERGY RESOURCES. THE INVESTIGATION, WHICH SHALL
37 BE CONDUCTED IN AN INVESTIGATORY PROCEEDING, MUST CONSIST OF A
38 REVIEW OF EXISTING AND POTENTIAL METRICS, INCLUDING FUTURE TEST

1 YEARS, AND CONSIDERATION OF NEW PERFORMANCE-BASED INCENTIVES.
2 (2) (a) WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF
3 THIS SECTION, THE COMMISSION SHALL REPORT ITS FINDINGS TO THE
4 SENATE TRANSPORTATION AND ENERGY COMMITTEE AND THE HOUSE OF
5 REPRESENTATIVES ENERGY AND ENVIRONMENT COMMITTEE, OR THEIR
6 SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE THE FOLLOWING:
7 (I) A GENERAL DETERMINATION AS TO WHETHER A TRANSITION TO
8 PERFORMANCE-BASED METRICS REGULATION OF A REGULATED UTILITY
9 WOULD BE NET BENEFICIAL TO THE STATE, IN TERMS OF MEETING STATED
10 OBJECTIVES OF THE COMMISSION AND OTHER RELATED STATUTORY
11 REQUIREMENTS;
12 (II) ACTIONS THAT THE COMMISSION MAY PURSUE TO GUIDE THE
13 CHANGE TO A PERFORMANCE-BASED METRICS REGULATION;
14 (III) DIRECTIVES TO BE GIVEN TO UTILITIES;
15 (IV) A LIST OF TYPES OF FUTURE LITIGATED PROCEEDINGS WITHIN
16 WHICH THE REPORT COULD BE IMPLEMENTED; AND
17 (V) A PROPOSED TIMELINE FOR TRANSITION TO
18 PERFORMANCE-BASED METRICS REGULATION.
19 (b) THE REPORT MAY INCLUDE ANY RECOMMENDATIONS OF
20 LEGISLATION NEEDED TO FULLY REALIZE THE BENEFITS OF
21 PERFORMANCE-BASED METRICS REGULATION, INCLUDING IDENTIFYING
22 ANY EXISTING STATUTE THAT WOULD SERVE AS AN IMPEDIMENT TO
23 REALIZING THE FULL BENEFITS OF A TRANSITION TO PERFORMANCE-BASED
24 METRICS REGULATION AND SUGGESTED RECOMMENDED CHANGES TO THE
25 EXISTING STATUTE.
26 (3) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

27 **40-3-117. Utility wholesale and retail rates survey -**
28 **nonadjudicatory proceeding - report - repeal.** (1) THE COMMISSION
29 SHALL OPEN A NONADJUDICATORY PROCEEDING TO CONDUCT A SURVEY OF
30 PUBLIC UTILITY WHOLESALE AND RETAIL RATES AND SPECIFICALLY
31 CONSIDER RECOMMENDATIONS THAT WOULD RESULT IN RATE RELIEF IN
32 CERTIFICATED UTILITY TERRITORIES WITH RETAIL RATES MATERIALLY
33 GREATER THAN THE STATE AVERAGE. THE COMMISSION SHALL DETERMINE
34 THE MINIMUM PERCENTAGE BY WHICH A RETAIL RATE THAT EXCEEDS THE
35 STATE AVERAGE RATE QUALIFIES AS A MATERIALLY GREATER RATE.
36 (2) THE COMMISSION SHALL HOLD A PUBLIC HEARING WITHIN ANY
37 CERTIFICATED UTILITY TERRITORY DETERMINED TO HAVE A MATERIALLY
38 GREATER RETAIL RATE THAN THE STATE AVERAGE RATE.
39 (3) ON OR BEFORE FEBRUARY 1, 2021, THE COMMISSION SHALL
40 FILE A REPORT WITH THE HOUSE ENERGY AND ENVIRONMENT COMMITTEE

1 AND THE SENATE TRANSPORTATION AND ENERGY COMMITTEE, OR THEIR
2 SUCCESSOR COMMITTEES, DESCRIBING THE SCOPE OF ANALYSIS
3 CONDUCTED, POTENTIAL SOLUTIONS CONSIDERED, AND ANY
4 RECOMMENDATIONS THAT COULD PROVIDE RATE RELIEF TO RATEPAYERS.

5 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021."

6 Renumber succeeding sections accordingly.

7 Page 13, strike lines 11 through 27 and substitute:

8 **"40-3.2-106. Costs of pollution in utility planning - definitions**

9 - **rules.** (1) THE COMMISSION SHALL REQUIRE AN ELECTRIC PUBLIC
10 UTILITY SUBJECT TO COMMISSION JURISDICTION TO CONSIDER THE COST OF
11 CARBON DIOXIDE EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4)
12 OF THIS SECTION, WHEN DETERMINING THE COST, BENEFIT, OR NET
13 PRESENT VALUE OF ANY PLAN OR PROPOSAL SUBMITTED IN ONE OF THE
14 FOLLOWING PROCEEDINGS:

15 (a) ELECTRIC RESOURCE PLANS OR ANY UTILITY PLAN OR
16 APPLICATION THAT CONSIDERS OR PROPOSES THE ACQUISITION OF NEW
17 ELECTRIC GENERATING RESOURCES OR THE RETIREMENT OF EXISTING
18 UTILITY GENERATION;

19 (b) APPLICATIONS RELATED TO SECTION 40-2-124;

20 (c) APPLICATIONS RELATED TO SECTION 40-3.2-104; OR

21 (d) A PLAN OR APPLICATION FOR TRANSPORTATION
22 ELECTRIFICATION OR OTHER FORMS OF BENEFICIAL ELECTRIFICATION.

23 (2) IN A PROCEEDING LISTED IN SUBSECTION (1)(a) OF THIS
24 SECTION, A UTILITY SHALL:

25 (a) AT A MINIMUM, MODEL AN OPTIMIZATION OF A BASE CASE
26 PORTFOLIO OF RESOURCES USING THE COST OF CARBON DIOXIDE
27 EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4) OF THIS SECTION.
28 THE COST OF CARBON DIOXIDE EMISSIONS MUST APPLY TO THE
29 EVALUATION OF ALL EXISTING ELECTRIC GENERATION RESOURCES AND TO
30 ANY NEW RESOURCES EVALUATED OR PROPOSED AS PART OF THE
31 RESOURCE MODELING. THE COMMISSION MAY REQUIRE A UTILITY TO FILE
32 OR PROPOSE ADDITIONAL BASE CASES. FOR THE PURPOSE OF DEVELOPING
33 ADDITIONAL OPTIMIZED PORTFOLIOS OR FOR SCENARIO ANALYSIS, THE
34 COMMISSION MAY AMEND ITS RULES TO ALLOW A UTILITY TO USE OTHER
35 COSTS FOR CARBON DIOXIDE EMISSIONS IN ADDITION TO THE COST OF
36 CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO SUBSECTION (4) OF
37 THIS SECTION.

38 (b) (I) PRESENT A CALCULATION OF THE NET PRESENT VALUE OF
39 REVENUE REQUIREMENT FOR THE RESOURCES IN EACH OPTIMIZED

1 PORTFOLIO. TO SHOW THE NET PRESENT VALUE OF REVENUE REQUIREMENT
2 THAT WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE
3 PORTFOLIO, IN ADDITION TO PRESENTING THE FULL NET PRESENT VALUE OF
4 REVENUE REQUIREMENT THROUGH A CALCULATION USING THE COST OF
5 CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO SUBSECTION (4) OF
6 THIS SECTION, THE UTILITY SHALL ALSO PRESENT THE FULL NET PRESENT
7 VALUE OF REVENUE REQUIREMENT THROUGH A CALCULATION WITHOUT
8 USING THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO
9 SUBSECTION (4) OF THIS SECTION.

10 (II) IN ADDITION TO THE NET PRESENT VALUE OF REVENUE
11 REQUIREMENT CALCULATIONS REQUIRED IN SUBSECTION (2)(b)(I) OF THIS
12 SECTION, FOR EACH OPTIMIZED MODEL RUN THE UTILITY MUST PROVIDE A
13 PRESENT VALUE CALCULATION SHOWING THE NET PRESENT VALUE OF THE
14 TOTAL COST OF CARBON DIOXIDE EMISSIONS OF EACH PORTFOLIO,
15 CALCULATED BY MULTIPLYING THE TOTAL EMISSIONS OF THAT PORTFOLIO
16 BY THE COST OF CARBON DIOXIDE SET FORTH PURSUANT TO SUBSECTION
17 (4) OF THIS SECTION.

18 (3) IN APPROVING A RESOURCE PLAN, THE COMMISSION SHALL
19 CONSIDER:

20 (a) THE NET PRESENT VALUE OF THE COST OF CARBON DIOXIDE
21 EMISSIONS;

22 (b) THE NET PRESENT VALUE OF REVENUE REQUIREMENTS THAT
23 WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE PORTFOLIO;
24 AND

25 (c) OTHER RELEVANT FACTORS, AS DETERMINED BY THE
26 COMMISSION.

27 (4) THE COMMISSION SHALL BASE THE COST OF CARBON DIOXIDE
28 EMISSIONS ON THE MOST RECENT ASSESSMENT OF THE SOCIAL COST OF
29 CARBON DIOXIDE DEVELOPED BY THE FEDERAL GOVERNMENT. STARTING
30 IN 2020, THE COMMISSION SHALL USE A SOCIAL COST OF CARBON DIOXIDE
31 OF NOT LESS THAN FORTY-SIX DOLLARS PER SHORT TON. THE COMMISSION
32 SHALL MODIFY THE COST OF CARBON DIOXIDE EMISSIONS BASED ON
33 ESCALATION RATES OF THE 2020 BASE COST BY AN AMOUNT THAT IS
34 EQUAL TO OR GREATER THAN THE CENTRAL VALUE ESCALATION RATES
35 ESTABLISHED IN THE TECHNICAL SUPPORT DOCUMENT. WHEN
36 CALCULATING THE COST OF CARBON DIOXIDE EMISSIONS FOR ANY
37 PROCEEDING LISTED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSION
38 SHALL USE THE SAME DISCOUNT RATE AS THAT USED TO DEVELOP THE
39 FEDERAL SOCIAL COST OF CARBON DIOXIDE, AS SET FORTH IN THE
40 TECHNICAL SUPPORT DOCUMENT.

41 (5) THE COMMISSION SHALL APPLY A COST OF CARBON DIOXIDE

1 EMISSIONS TO THE NONENERGY BENEFITS FOR PROGRAMS THAT ARE
2 DEFINED TO BE BENEFICIAL ELECTRIFICATION.

3 (6) AS USED IN THIS SECTION:

4 (a) "BENEFICIAL ELECTRIFICATION" MEANS A UTILITY'S CHANGE IN
5 THE ENERGY SOURCE POWERING AN END USE FROM A NONELECTRIC
6 SOURCE TO AN ELECTRIC SOURCE, INCLUDING TRANSPORTATION, WATER
7 HEATING, SPACE HEATING, OR INDUSTRIAL PROCESSES, IF THE CHANGE:

8 (I) REDUCES SYSTEM COSTS FOR THE UTILITY'S CUSTOMERS;

9 (II) REDUCES NET CARBON DIOXIDE EMISSIONS; OR

10 (III) PROVIDES FOR A MORE EFFICIENT UTILIZATION OF GRID
11 RESOURCES.

12 (b) "TECHNICAL SUPPORT DOCUMENT" MEANS THE 2016
13 TECHNICAL SUPPORT DOCUMENT OF THE FEDERAL INTERAGENCY WORKING
14 GROUP ON SOCIAL COST OF GREENHOUSE GASES, ENTITLED "TECHNICAL
15 UPDATE OF THE SOCIAL COST OF CARBON FOR REGULATORY IMPACT
16 ANALYSIS - UNDER EXECUTIVE ORDER 12866".

17 Strike page 14.

18 Page 15, strike lines 1 through 4.

19 Page 16, after line 26 insert:

20 "SECTION 11. In Colorado Revised Statutes, 40-6-109, amend
21 (1) as follows:

22 **40-6-109. Hearings - orders - record - review - representation**
23 **of entities in nonadjudicatory proceedings.** (1) At the time fixed for
24 any A hearing before the commission, any A commissioner, or an
25 administrative law judge, or, at the time to which the ~~same~~ HEARING may
26 have been continued, the applicant, petitioner, complainant; the person,
27 firm, or corporation complained of; and ~~such persons, firms, or~~
28 ~~corporations~~ ANY PERSON, FIRM, OR CORPORATION as the commission may
29 allow to intervene ~~and such persons, firms, or corporations as will be~~
30 THAT IS interested in or affected by any A COMMISSION order ~~that may be~~
31 ~~made by the commission~~ in such THE proceeding and ~~who shall have~~
32 THAT HAS become ~~parties~~ A PARTY to the proceeding ~~shall be~~ IS entitled
33 to be heard, examine and cross-examine witnesses, and introduce
34 evidence. AN INDIVIDUAL CUSTOMER OF A REGULATED UTILITY IS
35 AUTHORIZED TO INTERVENE IN A MATTER BEFORE THE COMMISSION THAT
36 AFFECTS THE CUSTOMER. A full and complete record of all proceedings
37 ~~had~~ before the commission, any A commissioner, or an administrative law

1 judge in any formal hearing and all testimony shall be taken down by any
2 A reporter appointed by the commission or RECORDED ELECTRONICALLY
3 as deemed appropriate by the commission, a commissioner, or an
4 administrative law judge, as applicable. ~~recorded electronically~~. All
5 parties in interest ~~shall be~~ ARE entitled to be heard in person or TO BE
6 REPRESENTED by attorney."

7 Renumber succeeding sections accordingly.

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