

CHAPTER 220

PUBLIC UTILITIES

HOUSE BILL 24-1370

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also SENATOR(S) Winter F., Buckner, Cutter, Hansen, Jaquez Lewis, Michaelson Jenet, Priola.

AN ACT

**CONCERNING MEASURES TO REDUCE THE COST OF USE OF NATURAL GAS INFRASTRUCTURE, AND,
IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

SECTION 1. In Colorado Revised Statutes, **add** article 3.3 to title 40 as follows:

ARTICLE 3.3
Gas Infrastructure Planning

40-3.3-101. Definitions. AS USED IN THIS ARTICLE 3.3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ALTERNATIVE ENERGY SERVICE" MEANS A LOW- OR ZERO-CARBON RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL ENERGY SERVICE THAT IS ABLE TO MEET A CUSTOMER'S END USE NEED AND DOES NOT COMBUST METHANE-, PROPANE-, OR PETROLEUM-DERIVED GAS ON SITE IN DOING SO.

(2) "COLORADO ENERGY OFFICE" MEANS THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101.

(3) "DISTRIBUTION SYSTEM" HAS THE MEANING SET FORTH IN SECTION 40-2-115 (2)(b) AND INCLUDES THE PIPING AND ASSOCIATED FACILITIES USED TO DELIVER GEOLOGICAL GAS OR RECOVERED METHANE.

(4) "DUAL-FUEL UTILITY" MEANS AN INVESTOR-OWNED UTILITY IN WHICH ONE COMPANY OR A SUBSIDIARY OF THE SAME COMPANY OPERATES BOTH AN ELECTRIC AND A GAS UTILITY THAT HAVE SERVICE TERRITORIES IN THE STATE WHERE GREATER

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

THAN FIFTY PERCENT OF ALL CUSTOMERS IN THOSE TERRITORIES RECEIVE BOTH GAS AND ELECTRIC SERVICE FROM A UTILITY OPERATED BY THAT COMPANY OR A SUBSIDIARY OF THE SAME COMPANY.

(5) "GAS" MEANS NATURAL OR GEOLOGICAL GAS, RECOVERED METHANE, OR ANY MIXTURE OF NATURAL OR GEOLOGICAL GAS OR RECOVERED METHANE THAT IS TRANSPORTED BY A COMMON CARRIER OR DEDICATED PIPELINE, INCLUDING FLAMMABLE GAS; MANUFACTURED GAS; PETROLEUM OR OTHER HYDROCARBON GASES, SUCH AS PROPANE; OR ANY MIXTURE OF FOSSIL GASES THAT IS INJECTED INTO A PIPELINE AND TRANSMITTED, DISTRIBUTED, OR FURNISHED BY A UTILITY.

(6) "GAS INFRASTRUCTURE PLAN" MEANS A REQUIREMENT FOR GAS UTILITIES ESTABLISHED BY THE COMMISSION THAT IS DESIGNED TO ESTABLISH A PROCESS TO DETERMINE THE NEED FOR, AND POTENTIAL ALTERNATIVES TO, CAPITAL INVESTMENT, CONSISTENT WITH THE OBJECTIVES OF MAINTAINING JUST AND REASONABLE RATES; ENSURING SYSTEM SAFETY, RELIABILITY, AND RESILIENCY; AND PROTECTING INCOME-QUALIFIED UTILITY CUSTOMERS AND DISPROPORTIONATELY IMPACTED COMMUNITIES.

(7) "GAS PLANNING PILOT COMMUNITY" MEANS A LOCAL GOVERNMENT IN WHICH CONSTITUENTS HAVE GAS SERVICE PROVIDED BY A DUAL-FUEL UTILITY AND AN ACTIVE FRANCHISE AGREEMENT WITH THE DUAL-FUEL UTILITY, WHICH LOCAL GOVERNMENT FORMALLY INDICATES AN INTEREST IN WORKING WITH THE DUAL-FUEL UTILITY TO MUTUALLY EXPLORE OPPORTUNITIES FOR NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS, INCLUDING THROUGH THE EXCHANGE OF UTILITY GAS INFRASTRUCTURE DATA AND COMMUNITY DEVELOPMENT PLANS.

(8) "GREENHOUSE GAS REDUCTION GOALS" MEANS THE STATE'S GREENHOUSE GAS REDUCTION GOALS DESCRIBED IN SECTION 25-7-102 (2)(g).

(9) "INCOME-QUALIFIED UTILITY CUSTOMER" HAS THE MEANING SET FORTH IN SECTION 40-3-106 (1)(d)(II).

(10) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY COUNTY, CITY, OR CITY AND COUNTY.

(11) "NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT" MEANS A PROJECT IN A GAS PLANNING PILOT COMMUNITY:

(a) WHERE A DUAL-FUEL UTILITY:

(I) PROVIDES BOTH GAS AND ELECTRIC SERVICE;

(II) PROVIDES GAS SERVICE AND A MUNICIPALLY OWNED UTILITY OPERATED BY THE GAS PLANNING PILOT COMMUNITY PROVIDES ELECTRIC SERVICE; OR

(III) PROVIDES GAS SERVICE AND A COOPERATIVE ELECTRIC ASSOCIATION THAT SERVES A GAS PLANNING PILOT COMMUNITY HAS VOLUNTARILY PARTNERED WITH THE DUAL-FUEL UTILITY; AND

(b) THAT GEOGRAPHICALLY TARGETS DECOMMISSIONING A PORTION OF THE GAS

DISTRIBUTION SYSTEM OR AVOIDS EXPANDING THE GAS DISTRIBUTION SYSTEM IN ORDER TO SERVE NEW CONSTRUCTION PROJECTS AND PROVIDES ALTERNATIVE ENERGY SERVICE TO BUILDINGS WITHIN THE PROJECT AREA THAT REDUCES FUTURE GREENHOUSE GAS EMISSIONS REQUIRED TO SERVE BUILDINGS.

(12) "NONEMITTING THERMAL RESOURCE" MEANS EFFICIENT THERMAL ENERGY FOR HEATING, COOLING, OR HOT WATER, WHICH ENERGY DOES NOT REQUIRE COMBUSTION OF GAS, SUCH AS AN AIR-SOURCE HEAT PUMP, AS DEFINED IN SECTION 39-22-554 (2)(a); A GROUND-SOURCE HEAT PUMP, AS DEFINED IN SECTION 39-22-554 (2)(g); A HEAT PUMP WATER HEATER; A THERMAL ENERGY SYSTEM; OR A THERMAL ENERGY NETWORK.

(13) "PIPELINE SEGMENT" MEANS A DISCRETE PORTION OF THE DISTRIBUTION SYSTEM AND ALL ANCILLARY STRUCTURES, VALVES, AND OTHER SYSTEMS NEEDED TO DISTRIBUTE GAS. A PIPELINE SEGMENT MUST BE THE SMALLEST INCREMENTAL UNIT POSSIBLE, AS DEFINED BY PIPELINE MATERIALS, GEOGRAPHICAL FEATURES, AND THE DESIGN OF THE DISTRIBUTION SYSTEM.

(14) "THERMAL ENERGY NETWORK" HAS THE MEANING SET FORTH IN SECTION 40-3.2-108 (2)(s).

(15) "THERMAL ENERGY SYSTEM" HAS THE MEANING SET FORTH IN SECTION 40-3.2-108 (2)(t).

40-3.3-102. Request for information - gas planning pilot community - disclosures - repeal. (1) (a) BY DECEMBER 1, 2024, THE COLORADO ENERGY OFFICE SHALL ISSUE A REQUEST FOR INFORMATION TO IDENTIFY LOCAL GOVERNMENTS WHOSE RESIDENTS ARE SERVED BY A DUAL-FUEL UTILITY THAT ARE INTERESTED IN BECOMING A GAS PLANNING PILOT COMMUNITY.

(b) THE COLORADO ENERGY OFFICE SHALL INCLUDE IN THE REQUEST FOR INFORMATION THE MINIMUM CRITERIA THAT A LOCAL GOVERNMENT MUST MEET IN ORDER TO BECOME A GAS PLANNING PILOT COMMUNITY, INCLUDING:

(I) A DEMONSTRATION THAT DESIGNATION AS A GAS PLANNING PILOT COMMUNITY WOULD ALIGN WITH THE LOCAL GOVERNMENT'S CLIMATE AND ENERGY AFFORDABILITY GOALS;

(II) A WILLINGNESS TO PROMOTE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS AND TO SUPPORT, ENGAGE, AND EDUCATE RESIDENTS WITHIN A COMMUNITY FOR WHICH A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT IS PROPOSED PRIOR TO APPROVAL BY THE COMMISSION; AND

(III) A COMMITMENT OF INTERNAL OR EXTERNAL STAFF RESOURCES TO IDENTIFY AND IMPLEMENT NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS.

(c) AT LEAST THIRTY DAYS PRIOR TO ISSUING THE REQUEST FOR INFORMATION, THE COLORADO ENERGY OFFICE SHALL PUBLISH A DRAFT OF THE REQUEST FOR INFORMATION ON ITS WEBSITE AND PROVIDE AN OPPORTUNITY FOR THE PUBLIC TO SUBMIT WRITTEN COMMENTS.

(2) (a) By April 30, 2025, the Colorado Energy Office and a dual-fuel utility shall jointly file with the Commission the results of the request for information required by subsection (1)(a) of this section, identifying up to five proposed gas planning pilot communities. In identifying proposed gas planning pilot communities, the Colorado Energy Office and a dual-fuel utility shall prioritize local governments that are interested in pursuing thermal energy network or geothermal energy projects as part of the proposed gas planning pilot community's evaluation of any potential neighborhood-scale alternatives project pursuant to section 40-3.3-103. The Colorado Energy Office and the dual-fuel utility shall also jointly file a draft agreement between the dual-fuel utility and any proposed gas planning pilot community, which draft agreement must:

(I) Identify the roles and responsibilities of the dual-fuel utility and the proposed gas planning pilot community in identifying neighborhood-scale alternatives projects;

(II) Identify time frames for each party to furnish data or respond to requests for data from the other party;

(III) Include any necessary waivers of Commission rules to facilitate data transfer between the parties;

(IV) Include a process to address conflicts between the two parties; and

(V) Indicate whether the proposed gas planning pilot community has demonstrated an interest in pursuing thermal energy network or geothermal energy projects.

(b) The Commission shall provide an opportunity for the public to submit written comments on the filing.

(c) By June 30, 2025, the Commission shall approve or modify the list of proposed gas planning pilot communities; except that the Commission shall not increase the number of proposed gas planning pilot communities beyond five.

(3) By October 1, 2025, a dual-fuel utility shall enter into an agreement with each local government that has been approved as a gas planning pilot community and shall submit to the Commission a list of the gas planning pilot communities with which the dual-fuel utility has established an agreement. The dual-fuel utility and local government may agree to extend this deadline.

(4) Subsections (1) to (3) of this section are repealed, effective June 1, 2028.

(5)(a) Unless otherwise directed by the Commission or requested by the gas planning pilot community, a dual-fuel utility shall provide each gas planning pilot community, the Commission, and the Colorado Energy

OFFICE WITH DATA AND INFORMATION TO INFORM THE EVALUATION OF POTENTIAL NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS THAT INCLUDES:

(I) THE LOCATION OF ANY PLANNED GAS INFRASTRUCTURE PROJECTS IN THE GAS PLANNING PILOT COMMUNITY WITHIN THE SIX-YEAR GAS PROJECT PLANNING FORECAST IN THE DUAL-FUEL UTILITY'S MOST RECENTLY APPROVED GAS INFRASTRUCTURE PLAN OR IDENTIFIED BY THE DUAL-FUEL UTILITY FOR INCLUSION IN A FUTURE GAS INFRASTRUCTURE PLAN TO THE EXTENT AVAILABLE; AND

(II) THE FOLLOWING INFORMATION REGARDING THE PLANNED GAS INFRASTRUCTURE PROJECTS DESCRIBED IN SUBSECTION (5)(a)(I) OF THIS SECTION:

(A) THE PROJECT NAME;

(B) THE PROJECT CATEGORY, CONSISTENT WITH THE PLANNED PROJECTS CATEGORIES DESCRIBED IN APPLICABLE COMMISSION RULES;

(C) A DESCRIPTION OF THE GENERAL SCOPE OF WORK AND AN EXPLANATION OF THE NEED FOR THE PROJECT, INCLUDING ANY APPLICABLE CODE REQUIREMENTS OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION'S PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION;

(D) THE PROJECTED LIFE OF THE PROJECT;

(E) AN INDICATION OF WHETHER THE PROJECT IS PRESENTED AS A GAS INFRASTRUCTURE PLAN ACTION PERIOD PROJECT OR A GAS INFRASTRUCTURE PLAN INFORMATIONAL PERIOD PROJECT PURSUANT TO APPLICABLE COMMISSION RULES;

(F) THE ANTICIPATED: CONSTRUCTION START DATE FOR THE PROJECT; CONSTRUCTION PERIOD FOR THE PROJECT, INCLUDING AN INDICATION OF ANY CONSTRUCTION PHASES; AND IN-SERVICE DATE FOR THE PROJECT;

(G) THE COST-ESTIMATE CLASSIFICATION FOR THE PROJECT, USING THE DUAL-FUEL UTILITY'S OR AN INDUSTRY-ACCEPTED COST-ESTIMATE CLASSIFICATION INDEX; SUPPORT FOR THE COST-ESTIMATE CLASSIFICATION; AND THE TOTAL COST ESTIMATE FOR THE PROJECT;

(H) THE TECHNICAL DETAILS OF THE PROJECT, SUCH AS THE PHYSICAL EQUIPMENT CHARACTERISTICS OF THE PROPOSED FACILITIES, PIPELINE LENGTH, PIPELINE DIAMETER, PROJECT MATERIALS, AND MAXIMUM ALLOWABLE OPERATING PRESSURE;

(I) THE PROJECT LOCATION AND AN ILLUSTRATIVE MAP OF THE GAS DISTRIBUTION SYSTEM FACILITIES, SUBJECT TO NECESSARY CONFIDENTIALITY PROVISIONS, INCLUDING: THE PRESSURE DISTRICT OR GEOGRAPHIC AREA THAT REQUIRES THE PROPOSED FACILITIES, THE EXISTING AND PROPOSED REGULATOR STATIONS AND EXISTING AND PROPOSED DISTRIBUTION PIPING AND HIGHER CAPACITY PIPELINES SERVED BY OR REPRESENTING THE PROPOSED FACILITIES, THE LOCATIONS OF ANY NEARBY DISPROPORTIONATELY IMPACTED COMMUNITIES, AND ANY OTHER INFORMATION NECESSARY TO ALLOW THE LOCAL GOVERNMENT TO MAKE A THOROUGH EVALUATION OF THE PROJECT;

(J) TO THE EXTENT PRACTICABLE, THE NUMBER OF CUSTOMERS, ANNUAL SALES, AND DESIGN PEAK DEMAND REQUIREMENTS, DISAGGREGATED BY CUSTOMER CLASS, POTENTIALLY DIRECTLY IMPACTED OR SERVED BY THE PROJECT;

(K) ANY PERMITS REQUIRED FOR WORK ON THE PROJECT TO BEGIN; AND

(L) ANY ENVIRONMENTAL REQUIREMENTS ASSOCIATED WITH COMPLETION OF THE PROJECT.

(b) A DUAL-FUEL UTILITY SHALL PROVIDE GAS PLANNING PILOT COMMUNITY STAFF AND CONSULTANTS, WHO HAVE SIGNED APPROPRIATE NONDISCLOSURE AGREEMENTS, WITH ALL REQUESTED GAS AND ELECTRIC CUSTOMER USAGE AND DESIGN PEAK DEMAND DATA, TO THE EXTENT AVAILABLE AND DISAGGREGATED TO THE INDIVIDUAL CUSTOMER, FOR ALL PLANNED GAS INFRASTRUCTURE PROJECTS LOCATED IN A GAS PLANNING PILOT COMMUNITY WITHIN THE SIX-YEAR GAS PROJECT PLANNING FORECAST IN THE DUAL-FUEL UTILITY'S MOST RECENTLY APPROVED GAS INFRASTRUCTURE PLAN OR IDENTIFIED BY THE DUAL-FUEL UTILITY FOR INCLUSION IN A FUTURE GAS INFRASTRUCTURE PLAN. THE DUAL-FUEL UTILITY SHALL PROVIDE SUCH INFORMATION WITHIN THE RELEVANT TIME FRAME ESTABLISHED PURSUANT TO SUBSECTION (2)(a)(II) OF THIS SECTION.

(c) THE INFORMATION DESCRIBED IN SUBSECTIONS (5)(a) AND (5)(b) OF THIS SECTION IS EXEMPT FROM THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

40-3.3-103. Neighborhood-scale alternatives projects - cost recovery - reporting requirement. (1) A DUAL-FUEL UTILITY SHALL WORK WITH A GAS PLANNING PILOT COMMUNITY TO RANK AND PRIORITIZE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS WITHIN EACH GAS PLANNING PILOT COMMUNITY BASED ON LOCAL GOVERNMENT INPUT AND CONSIDERATION OF:

(a) THE NUMBER AND CUSTOMER CLASS SERVED BY EACH PIPELINE SEGMENT INCLUDED IN A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT;

(b) THE DEGREE OF SUPPORT FOR THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT FROM CUSTOMERS POTENTIALLY IMPACTED BY THE PROJECT, WITH PREFERENCE GIVEN TO THOSE PROJECTS THAT HAVE FULL SUPPORT FROM POTENTIALLY IMPACTED CUSTOMERS;

(c) THE COST-EFFECTIVENESS OF THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, USING THE COST-BENEFIT HANDBOOK FROM THE DUAL-FUEL UTILITY'S MOST RECENT GAS INFRASTRUCTURE PLAN;

(d) THE NET COST TO CUSTOMERS POTENTIALLY PARTICIPATING IN THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT;

(e) THE AVAILABILITY OF ALTERNATIVE ENERGY SERVICE, INCLUDING FOR SCENARIOS WITH ENHANCED GAS AND ELECTRIC DEMAND RESPONSE OR DEMAND FLEXIBILITY;

(f) THE ABILITY OF THERMAL ENERGY NETWORKS TO SERVE THE AREA COVERED

BY THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, WITH PRIORITY GIVEN TO PROJECTS THAT INCLUDE A THERMAL ENERGY NETWORK OR A GEOTHERMAL ENERGY PROJECT;

(g) WHETHER THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT IS PART OF A NEW DEVELOPMENT OR WOULD SERVE EXISTING CUSTOMERS, OR BOTH;

(h) THE PRIORITIZATION OF PIPELINE SEGMENTS THAT ARE PART OF PROJECTS INCLUDED IN A DUAL-FUEL UTILITY'S GAS INFRASTRUCTURE PLAN OR OTHERWISE IDENTIFIED BY THE DUAL-FUEL UTILITY FOR INCLUSION IN A FUTURE GAS INFRASTRUCTURE PLAN, TO THE EXTENT THIS INFORMATION IS AVAILABLE; AND

(i) THE LOCATION OF ANY NEARBY DISPROPORTIONATELY IMPACTED COMMUNITY OR PIPELINE SEGMENTS THAT SERVE DISPROPORTIONATELY IMPACTED COMMUNITIES.

(2) (a) (I) PRIOR TO JUNE 1, 2026, A DUAL-FUEL UTILITY AND LOCAL GOVERNMENT SHALL JOINTLY SUBMIT FOR APPROVAL AT LEAST ONE INITIAL NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, TO BE LOCATED WITHIN A GAS PLANNING PILOT COMMUNITY, TO THE COMMISSION IF THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT HAS THE FULL SUPPORT OF POTENTIALLY AFFECTED CUSTOMERS. THE FILING MUST ALSO CONTAIN A LIST OF POTENTIAL PROJECTS THAT ARE RANKED HIGHLY BUT DO NOT HAVE FULL CUSTOMER SUPPORT AT THE TIME OF THE FILING.

(II) PRIOR TO JUNE 1, 2027, A DUAL-FUEL UTILITY AND A LOCAL GOVERNMENT SHALL JOINTLY SUBMIT FOR COMMISSION APPROVAL THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS INCLUDED ON THE LIST IN THE FILING SUBMITTED PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION AND THAT WILL BE PURSUED IN A GAS PLANNING PILOT COMMUNITY, WHICH PROJECTS MAY LACK FULL CUSTOMER SUPPORT IF THE LOCAL GOVERNMENT HAS DETERMINED THAT A REASONABLE MAJORITY OF CUSTOMERS SUPPORTS THE PROJECT. THE LOCAL GOVERNMENT SHALL DETERMINE WHAT CONSTITUTES A REASONABLE MAJORITY. THE DETERMINATION OF A REASONABLE MAJORITY OF CUSTOMER SUPPORT AND EFFORTS TO OBTAIN CUSTOMER CONSENT MUST BE SUPPORTED BY A SWORN AFFIDAVIT OR TESTIMONY FROM AN OFFICIAL EMPLOYEE OF THE LOCAL GOVERNMENT AS PART OF THE JOINT APPLICATION TO THE COMMISSION. THE JOINT APPLICATION MUST ALSO INCLUDE THE NET COSTS OF THE PROJECTS, INCLUDING ANY:

- (A) STATE OR FEDERAL FUNDING OR TAX CREDITS;
- (B) GAS PLANNING PILOT COMMUNITY INCENTIVES OR FUNDING;
- (C) EXISTING DUAL-FUEL UTILITY PROGRAM FUNDING;
- (D) ADDITIONAL DUAL-FUEL UTILITY INCENTIVES OR FUNDING;
- (E) CUSTOMER CONTRIBUTIONS; AND

(F) ANTICIPATED TOTAL CAPITAL EXPENDITURES BY THE DUAL-FUEL UTILITY AND CUSTOMERS, AVOIDED UTILITY CAPITAL EXPENDITURES, AND FUTURE DISCOUNTED CUSTOMER UTILITY BILL SAVINGS OR EXPENSES.

(III) IF A DUAL-FUEL UTILITY WILL NOT PURSUE A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT IN ONE OR MORE GAS PLANNING PILOT COMMUNITIES, THE DUAL-FUEL UTILITY AND LOCAL GOVERNMENT, PRIOR TO JUNE 1, 2027, SHALL JOINTLY FILE A REPORT WITH THE COMMISSION EXPLAINING WHY A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT WILL NOT BE PURSUED IN THAT COMMUNITY.

(b) THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT REGARDING THE DUAL-FUEL UTILITY'S SUBMISSION PURSUANT TO SUBSECTION (2)(a)(III) OF THIS SECTION.

(c) THE COMMISSION SHALL APPROVE A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT APPLICATION SUBMITTED BY A DUAL-FUEL UTILITY IF:

(I) THE PROJECT IS SUPPORTED BY A LOCAL GOVERNMENT ORDINANCE, PROCLAMATION, OR RESOLUTION;

(II) THE COMMISSION FINDS THAT THE PROJECT IS:

(A) CONSISTENT WITH THE STATE'S GREENHOUSE GAS REDUCTION GOALS; AND

(B) IN THE PUBLIC INTEREST, CONSIDERING COSTS AND BENEFITS TO THE GAS PLANNING PILOT COMMUNITY, PARTICIPATING CUSTOMERS, AND RATEPAYERS WITHIN THE DUAL-FUEL UTILITY'S GAS SERVICE TERRITORY AND ANY COST SHIFT BETWEEN PARTICIPATING CUSTOMERS AND ALL RATEPAYERS OF THE DUAL-FUEL UTILITY, WITH PREFERENCE GIVEN TO PROJECTS THAT RESULT IN NO COST SHIFT TO NONPARTICIPATING CUSTOMERS;

(III) THE APPROVED PORTFOLIO OF NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS PROVIDES AN APPROPRIATE MIX OF TECHNOLOGIES, CUSTOMER CLASSES, AND NEW CONSTRUCTION AND EXISTING BUILDINGS AND INCLUDES THE USE OF THERMAL ENERGY NETWORKS OR GEOTHERMAL ENERGY PROJECTS; AND

(IV) THE COMMISSION FINDS THAT ALTERNATIVE ENERGY SERVICE IS AVAILABLE TO ALL CUSTOMERS WITHIN THE PROJECT AREA AND CAN REASONABLY BE IMPLEMENTED WITHIN THE PROJECT AREA. IN MAKING THIS FINDING, THE COMMISSION SHALL CONSIDER:

(A) THE COST OF END USES POWERED BY DIFFERENT FUELS, IMPACTS ON INCOME-QUALIFIED UTILITY CUSTOMERS AND CUSTOMERS LIVING IN DISPROPORTIONATELY IMPACTED COMMUNITIES, AND THE STATE'S GREENHOUSE GAS EMISSION REDUCTION GOALS;

(B) EXISTING UTILITY OR OTHER INCENTIVES TO SUPPORT CUSTOMER ADOPTION OF THE ALTERNATIVE ENERGY SERVICE; AND

(C) THE DEGREE OF CUSTOMER SUPPORT FOR THE PROJECT, CONSIDERING THE INFORMATION PROVIDED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, AND WITH PRIORITY GIVEN TO PROJECTS THAT HAVE THE FULL SUPPORT OF POTENTIALLY AFFECTED CUSTOMERS.

(3) (a) THE COMMISSION SHALL ALLOW A DUAL-FUEL UTILITY TO CURRENTLY RECOVER THE COSTS INCURRED DURING THE DEVELOPMENT OF A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, INCLUDING COSTS TO TRANSITION THE DISTRIBUTION SYSTEM, INVEST IN ELECTRIC INFRASTRUCTURE, AND PROVIDE CUSTOMER INCENTIVES. SUCH COSTS ARE FULLY RECOVERABLE REGARDLESS OF THE PERFORMANCE OF THE ALTERNATIVE ENERGY SERVICE. THE COMMISSION SHALL ALSO PERMIT COST RECOVERY FOR PERSONNEL TO WORK ON THE DEVELOPMENT, IN WHOLE OR IN PART, OF NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS.

(b) THE DUAL-FUEL UTILITY SHALL PROPOSE TO THE COMMISSION HOW COSTS WILL BE RECOVERED ACROSS THE DUAL-FUEL UTILITY'S ELECTRIC AND GAS BUSINESS.

(c) FOR GAS PLANNING PILOT COMMUNITIES THAT RECEIVE GAS SERVICE FROM A DUAL-FUEL UTILITY BUT ARE NOT SERVED BY THE ELECTRIC UTILITY THAT IS PART OF THE DUAL-FUEL UTILITY, THE COMMISSION SHALL CONSIDER A COST-SHARING AGREEMENT, AS NECESSARY TO IMPLEMENT A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, WHICH AGREEMENT THE DUAL-FUEL UTILITY PROPOSES TO ENTER INTO WITH A LOCAL COOPERATIVE ELECTRIC ASSOCIATION OR MUNICIPALLY OWNED ELECTRIC UTILITY TO MAKE THE INCUMBENT GAS UTILITY THAT IS PART OF THE DUAL-FUEL UTILITY AND ITS CUSTOMERS WHOLE FOR ANY PROJECTS APPROVED BY THE COMMISSION WHEN THERE IS A COST SHIFT. THIS SUBSECTION (3)(c) SHALL NOT BE CONSTRUED TO SUBJECT A LOCAL COOPERATIVE ELECTRIC ASSOCIATION OR MUNICIPALLY OWNED ELECTRIC UTILITY ENTERING INTO SUCH AN AGREEMENT WITH A DUAL-FUEL UTILITY TO THE JURISDICTION OF THE COMMISSION. ANY FEDERAL, STATE, OR LOCAL FUNDING MADE AVAILABLE FOR A PROJECT SHALL BE APPLIED PRIOR TO APPLICATION OF UTILITY PROGRAMMATIC FUNDS, SUCH AS DEMAND-SIDE MANAGEMENT, BENEFICIAL ELECTRIFICATION, OR OTHER EXISTING OR FUTURE CUSTOMER-SITED PROGRAMS, INCENTIVES, REBATES, AND FINANCING.

(4) IN APPROVING A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT IN A GAS PLANNING PILOT COMMUNITY, THE COMMISSION MAY MODIFY THE GAS UTILITY'S SERVICE REQUIREMENT FOR SELECT PREMISES WITH AN ALTERNATIVE ENERGY SERVICE REQUIREMENT. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NOTHING IN THIS SECTION AFFECTS OR ABRIDGES A DUAL-FUEL UTILITY'S SERVICE REQUIREMENTS IN AREAS OUTSIDE THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT AREA. THE COMMISSION MAY IMPOSE AN ALTERNATIVE ENERGY SERVICE REQUIREMENT FOR ANY CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY GRANTED TO THE GAS UTILITY TO PROVIDE SERVICE TO THE TARGETED AREA THAT IS THE SUBJECT OF THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT IF THE COMMISSION FINDS THAT ALTERNATIVE ENERGY SERVICE IS AVAILABLE.

(5) (a) AS PART OF A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, A DUAL-FUEL UTILITY MAY PROPOSE TO FUND CONVERSION OF EXISTING GAS APPLIANCES OR EQUIPMENT TO NONEMITTING THERMAL RESOURCES, INCLUDING OFFERING INCREMENTAL INCENTIVES OR FINANCING ABOVE THAT APPROVED FOR CLEAN HEAT PLANS, AS DEFINED IN SECTION 40-3.2-108; BENEFICIAL ELECTRIFICATION PLANS, AS DEFINED IN SECTION 40-3.2-109; DEMAND-SIDE MANAGEMENT PROGRAMS, AS DEFINED IN SECTION 40-1-102; OR OTHER RELATED FILINGS.

(b) A DUAL-FUEL UTILITY MAY ALSO PROPOSE TO OFFER NEW RATE STRUCTURES TO PAY FOR THERMAL ENERGY NETWORKS OR OTHER NONEMITTING THERMAL RESOURCES AS AN ALTERNATIVE ENERGY SERVICE, UNDER WHICH RATE STRUCTURES CUSTOMERS PAY THE UTILITY FOR THERMAL ENERGY NETWORK SERVICES TO OFFSET THE INITIAL COST OF NEW APPLIANCES OR OTHER EQUIPMENT. IF A DUAL-FUEL UTILITY PROPOSES TO OFFER SUCH A RATE, THE COMMISSION SHALL NOT GRANT THE DUAL-FUEL UTILITY CURRENT COST RECOVERY PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION. A DUAL-FUEL UTILITY SHALL HAVE THE RIGHT OF FIRST REFUSAL TO OFFER THERMAL ENERGY NETWORK SERVICE OR ALTERNATIVE ENERGY SERVICE AS PART OF A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, IF THE DUAL-FUEL UTILITY SETS FORTH ITS INTENTION TO EXERCISE ITS RIGHT OF FIRST REFUSAL AND DEFINES THE SCOPE OF SUCH EXERCISE IN THE APPLICATION TO THE COMMISSION AND SUCH RIGHT OF FIRST REFUSAL:

(I) IS LIMITED TO NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS IN GAS PLANNING PILOT COMMUNITIES; AND

(II) IS EXERCISED WITHIN TWO YEARS AFTER APPROVAL BY THE COMMISSION.

(6) IF A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT QUALIFIES AS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303, A DUAL-FUEL UTILITY SHALL COMPLY WITH ALL REQUIREMENTS SET FORTH IN PART 3 OF ARTICLE 92 OF TITLE 24. THE DUAL-FUEL UTILITY SHALL UTILIZE UTILITY EMPLOYEES OR CONTRACTORS THAT MEET THE APPRENTICESHIP UTILIZATION REQUIREMENTS SET FORTH IN SECTION 24-92-115 TO SERVICE AND MAINTAIN ANY THERMAL ENERGY OR GEOTHERMAL ENERGY PROJECTS OWNED BY THE DUAL-FUEL UTILITY AND APPROVED BY THE COMMISSION UNDER THIS SECTION.

(7) BY JUNE 1 OF EACH YEAR FOLLOWING APPROVAL OF A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, A DUAL-FUEL UTILITY SHALL SUBMIT A REPORT TO THE COMMISSION ON THE IMPLEMENTATION OF THE NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT. THE REPORT MUST INCLUDE, AT A MINIMUM:

(a) AN UPDATE ON PROJECT IMPLEMENTATION, INCLUDING THE DEGREE OF CUSTOMER SUPPORT FOR THE PROJECT;

(b) AN EXPLANATION OF CUSTOMER SATISFACTION WITH ALTERNATIVE ENERGY SERVICE;

(c) ACTUAL NET PROJECT COSTS INCURRED, INCLUDING ANY:

(I) STATE OR FEDERAL FUNDING OR TAX CREDITS;

(II) GAS PLANNING PILOT COMMUNITY INCENTIVES OR FUNDING;

(III) EXISTING DUAL-FUEL UTILITY PROGRAM FUNDING;

(IV) ADDITIONAL DUAL-FUEL UTILITY INCENTIVES OR FUNDING;

(V) CUSTOMER CONTRIBUTIONS;

(VI) ANTICIPATED TOTAL CAPITAL EXPENDITURES BY THE DUAL-FUEL UTILITY AND CUSTOMERS, AVOIDED UTILITY CAPITAL EXPENDITURES, AND FUTURE DISCOUNTED CUSTOMER UTILITY BILL SAVINGS OR EXPENSES; AND

(VII) ESTIMATED OVERALL PROJECT COSTS IF NO INCENTIVES OR TAX CREDITS HAD BEEN AVAILABLE FOR THE PROJECT;

(d) THE IMPACT ON TOTAL ENERGY BILL AND ENERGY RELIABILITY FOR CUSTOMERS RECEIVING ALTERNATIVE ENERGY SERVICE;

(e) ANY ENCOUNTERED BARRIERS TO PROJECT IMPLEMENTATION, INCLUDING TECHNOLOGICAL OR WORKFORCE BARRIERS, AND THE LESSONS LEARNED IN OVERCOMING THOSE BARRIERS;

(f) THE IMPACT ON INCOME-QUALIFIED UTILITY CUSTOMERS AND CUSTOMERS LIVING IN DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(g) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

(8) BY JULY 1, 2028, OR ANOTHER TIME DETERMINED BY THE COMMISSION, THE COMMISSION SHALL HIRE A THIRD-PARTY CONSULTANT TO CONDUCT AN ANALYSIS OF ALL APPROVED AND PROPOSED NEIGHBORHOOD-SCALE ALTERNATIVES PROJECTS AND PRESENT THE FINDINGS OF THE ANALYSIS TO THE COMMISSION AND THE GENERAL ASSEMBLY. THE ANALYSIS MUST INCLUDE:

(a) FOR EACH PROJECT, THE INFORMATION SET FORTH IN SUBSECTION (7) OF THIS SECTION;

(b) A COMPARATIVE ANALYSIS OF NET COSTS INCURRED BY ALL PARTIES IN A NEIGHBORHOOD-SCALE ALTERNATIVES PROJECT, COMPARED WITH THE COST OF THE GAS INFRASTRUCTURE PROJECT THAT WAS AVOIDED, INCLUDING ANY:

(I) STATE OR FEDERAL FUNDING OR TAX CREDITS;

(II) GAS PLANNING PILOT COMMUNITY INCENTIVES OR FUNDING;

(III) EXISTING DUAL-FUEL UTILITY PROGRAM FUNDING;

(IV) ADDITIONAL DUAL-FUEL UTILITY INCENTIVES OR FUNDING;

(V) CUSTOMER CONTRIBUTIONS;

(VI) ANTICIPATED TOTAL CAPITAL EXPENDITURES BY THE DUAL-FUEL UTILITY AND CUSTOMERS, AVOIDED UTILITY CAPITAL EXPENDITURES, AND FUTURE DISCOUNTED CUSTOMER UTILITY BILL SAVINGS OR EXPENSES; AND

(VII) ESTIMATED OVERALL PROJECT COSTS IF NO INCENTIVES OR TAX CREDITS HAD BEEN AVAILABLE FOR THE PROJECT;

(c) THE ABILITY OF EACH PROJECT TO DEFER OR AVOID GAS INFRASTRUCTURE INVESTMENTS;

- (d) THE CUSTOMER ECONOMICS OF NONEMITTING THERMAL RESOURCES COMPARED WITH GAS ALTERNATIVES;
- (e) AN ANALYSIS OF ANY SUPPLY CHAIN CHALLENGES;
- (f) THE OVERALL LESSONS LEARNED FROM THE PROJECTS;
- (g) THE PERSPECTIVES OF THE GAS PLANNING PILOT COMMUNITIES REGARDING THE COLLABORATIVE PROCESS WITH A DUAL-FUEL UTILITY AND ANY LESSONS LEARNED FOR IMPROVING THE PROCESS;
- (h) THE NET IMPACTS TO THE UTILITY WORKFORCE; AND
- (i) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

SECTION 2. Appropriation. (1) For the 2024-25 state fiscal year, \$43,650 is appropriated to the office of the governor for use by the Colorado energy office. This appropriation is from the general fund, and is based on an assumption that the office will require an additional 0.4 FTE. To implement this act, the office may use this appropriation for program administration.

(2) For the 2024-25 state fiscal year, \$29,678 is appropriated to the department of regulatory agencies for use by the public utilities commission. This appropriation is from the public utilities commission fixed utility fund created in section 40-2-114 (1)(b)(II), C.R.S. To implement this act, the commission may use this appropriation as follows:

- (a) \$22,752 for personal services, which amount is based on an assumption that the commission will require an additional 0.2 FTE; and
- (b) \$6,926 for operating expenses.

SECTION 3. 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 22, 2024