

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0707.01 Jennifer Berman x3286

HOUSE BILL 25-1177

HOUSE SPONSORSHIP

Mauro, Bird, Martinez

SENATE SPONSORSHIP

Hinrichsen and Pelton B., Roberts

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ADJUSTMENTS TO THE ECONOMIC DEVELOPMENT RATE
102 TARIFF.

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>.)

Under current law, an investor-owned electric utility (utility) may apply to the public utilities commission (commission) for approval to charge certain commercial or industrial customers of the utility an economic development rate (economic development rate), which is a reduced rate offered to a commercial or industrial customer that locates or expands their operations in Colorado, that adds at least 3 megawatts of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

new load at a single location within the utility's service territory, and that demonstrates certain other requirements to the satisfaction of the utility (qualifying commercial or industrial customer).

The bill makes adjustments to the economic development rate tariff by:

- Authorizing the utility to apply to the commission for an expansion of the maximum duration of the economic development rate from 10 years to 25 years;
- Expanding the maximum load at a single location of a qualifying commercial or industrial customer for an individual project that does not require commission approval from 20 megawatts to 40 megawatts; and
- Updating the application process required for seeking approval of an economic development rate by requiring that the commission:
 - Approve or deny an application within 120 days after a notice period of 14 business days after the application was filed; and
 - Consider the broader economic benefits associated with the application for other classes of utility customers and for the surrounding community.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-3-104.3, **amend**
3 (6)(b)(I), (6)(b)(II)(B), (6)(b)(III), (6)(c)(I), (6)(d)(I) introductory portion,
4 (6)(d)(II) introductory portion, (6)(d)(II)(A), (7), and (8); and **add**
5 (6)(c)(IV) and (6)(c)(V) as follows:

6 **40-3-104.3. Manner of regulation - competitive responses -**
7 **economic development rate - definitions - repeal.** (6) (b) (I) An
8 economic development rate approved pursuant to this section MUST BE IN
9 THE PUBLIC INTEREST, MAY BE FILED WITH THE COMMISSION WITHOUT
10 REFERENCE TO ANY TARIFF ON FILE, AND must be lower than the rate or
11 rates that the qualifying commercial or industrial customer would be or
12 currently is subject to under the INVESTOR-OWNED ELECTRIC utility's
13 tariffs in effect at the time the qualifying commercial or industrial

1 customer seeks to qualify for the economic development rate; except that
2 an economic development rate must not be lower than the utility's
3 marginal cost of providing service to the qualifying commercial or
4 industrial customer.

5 (II) (B) Notwithstanding subsection (6)(b)(II)(A) of this section,
6 the INVESTOR-OWNED ELECTRIC utility may negotiate and enter into
7 agreements related to economic development rates with individual
8 qualifying commercial or industrial customers without commission
9 approval so long as the agreed-upon economic development rate complies
10 with the commission-approved tariff and the addition or expansion of
11 existing load at a single location is less than or equal to ~~twenty~~ FORTY
12 megawatts. IN APPROVING A UTILITY'S APPLICATION FOR AN ECONOMIC
13 DEVELOPMENT RATE, FOR LOADS BETWEEN TWENTY-ONE AND FORTY
14 MEGAWATTS, THE COMMISSION MAY REQUIRE THE INVESTOR-OWNED
15 ELECTRIC UTILITY TO MAKE ADDITIONAL DEMONSTRATIONS, INCLUDING A
16 MARGINAL COST DETERMINATION, AN ADDITIONAL POWER FLOW ANALYSIS
17 TO DEMONSTRATE THAT THE ADDED LOAD WILL BE SUPPORTED BY
18 ADEQUATE TRANSMISSION CAPABILITIES AND WILL NOT NEGATIVELY
19 IMPACT RELIABILITY OR RESOURCE ADEQUACY, A DEMONSTRATION THAT
20 THE ADDITIONAL INFRASTRUCTURE COSTS WILL NOT BE BORNE BY OTHER
21 CUSTOMERS, AND A DEMONSTRATION THAT PROJECTS ABOVE TWENTY-ONE
22 MEGAWATTS WILL PROVIDE ADDITIONAL COMMUNITY BENEFITS. Any
23 addition or expansion of existing load at a single location that is greater
24 than ~~twenty~~ FORTY megawatts requires separate commission approval
25 based upon a finding that the addition or expansion is consistent with this
26 section AND IN THE PUBLIC INTEREST.

27 (III) (A) An investor-owned ELECTRIC utility may offer an

1 economic development rate to a qualifying commercial or industrial
2 customer for up to ten years.

3 (B) NOTWITHSTANDING SUBSECTION (6)(b)(III)(A) OF THIS
4 SECTION, THE INVESTOR-OWNED ELECTRIC UTILITY MAY PROPOSE, AND
5 THE COMMISSION MAY CONSIDER APPROVING, AN ECONOMIC
6 DEVELOPMENT RATE TO A QUALIFYING COMMERCIAL OR INDUSTRIAL
7 CUSTOMER FOR A PERIOD OF GREATER THAN TEN YEARS, BUT NO MORE
8 THAN TWENTY-FIVE YEARS.

9 (C) IN EVALUATING WHETHER IT IS IN THE PUBLIC INTEREST FOR AN
10 INVESTOR-OWNED ELECTRIC UTILITY'S PROPOSAL TO ALLOW A QUALIFYING
11 COMMERCIAL OR INDUSTRIAL CUSTOMER TO REMAIN ON AN ECONOMIC
12 DEVELOPMENT RATE FOR LONGER THAN TEN YEARS, THE COMMISSION
13 SHALL EVALUATE THE PROPOSED DURATION OF THE QUALIFYING
14 COMMERCIAL OR INDUSTRIAL CUSTOMER'S PROPOSED PROJECT,
15 COMMUNITY IMPACTS, AND IMPACTS TO RATES OF OTHER CUSTOMERS OF
16 THE UTILITY.

17 (c) (I) An ~~authorization~~ APPROVAL granted by the commission
18 pursuant to this section must include such terms and conditions as the
19 commission determines are necessary to ensure that the economic
20 development rates or charges assessed to other customers do not subsidize
21 the cost of providing service to qualifying commercial and industrial
22 customers consistent with subsection (6)(b)(I) of this section and that
23 there is no other subsidization of such service. In ~~developing~~ APPROVING
24 the terms and conditions OF AN ECONOMIC DEVELOPMENT RATE, the
25 commission shall consider, among other things:

26 (A) The rates and charges assessed to the INVESTOR-OWNED
27 ELECTRIC utility's wholesale customers; ~~and~~

1 (B) The effects on other transmission system owners and users
2 resulting from new transmission facilities constructed in connection with
3 the utility's expansion of an existing voluntary ~~renewable~~ CLEAN energy
4 program or service offering; AND

5 (C) FOR ALL OF THE INVESTOR-OWNED ELECTRIC UTILITY'S
6 CUSTOMER CLASSES, THE BROADER ECONOMIC DEVELOPMENT BENEFITS
7 ASSOCIATED WITH THE QUALIFYING COMMERCIAL OR INDUSTRIAL
8 CUSTOMER BASED ON A DETERMINATION OF THE MARGINAL COST AND ON
9 A SOCIETAL ECONOMIC BENEFIT TEST DEVELOPED BY THE
10 INVESTOR-OWNED ELECTRIC UTILITY.

11 (IV) FOLLOWING A NOTICE PERIOD OF FOURTEEN BUSINESS DAYS
12 AFTER AN INVESTOR-OWNED ELECTRIC UTILITY FILES AN APPLICATION FOR
13 APPROVAL OF ECONOMIC DEVELOPMENT RATES, AND THE ADDITION OR
14 EXPANSION OF EXISTING LOAD AT A SINGLE LOCATION THAT IS FORTY-ONE
15 OR MORE MEGAWATTS, THE COMMISSION SHALL APPROVE OR DENY THE
16 APPLICATION WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EXPIRATION
17 OF THE NOTICE PERIOD.

18 (V) (A) IF AN INVESTOR-OWNED ELECTRIC UTILITY DOES NOT HAVE
19 A COMMISSION-APPROVED TARIFF PURSUANT TO SUBSECTION (6)(b)(II)(A)
20 OF THIS SECTION, THE COMMISSION, FOLLOWING A NOTICE PERIOD OF
21 FOURTEEN BUSINESS DAYS AFTER THE INVESTOR-OWNED ELECTRIC UTILITY
22 FILES AN APPLICATION FOR APPROVAL OF ECONOMIC DEVELOPMENT RATES,
23 SHALL APPROVE OR DENY THE APPLICATION WITHIN ONE HUNDRED
24 TWENTY DAYS AFTER THE EXPIRATION OF THE NOTICE PERIOD.

25 (B) THIS SUBSECTION (6)(c)(V) IS REPEALED, EFFECTIVE JUNE 1,
26 2026.

27 (d) (I) An investor-owned ELECTRIC utility may seek commission

1 approval to expand any voluntary ~~renewable~~ CLEAN energy program or
2 service offering, except those covered by valid agreements to the contrary
3 executed and approved by the commission as of January 1, 2019, through
4 the acquisition of additional ~~renewable~~ CLEAN ENERGY generation
5 capacity and energy to meet the current and projected demand of:

6 (II) The commission may approve, within one hundred twenty
7 days, an expansion of an existing voluntary ~~renewable~~ CLEAN energy
8 program or service offering upon a showing by the utility that:

9 (A) There is not sufficient capacity and energy in the existing
10 voluntary ~~renewable~~ CLEAN energy program or service offering to satisfy
11 the needs of the customer and the customer meets the requirements of
12 subsection (6)(d)(I) of this section; and

13 (7) As used in subsection (6) of this section and this subsection
14 (7), UNLESS THE CONTEXT OTHERWISE REQUIRES:

15 (a) "MARGINAL COST" MEANS THE INCREMENTAL ADDITIONAL
16 COST THAT AN INVESTOR-OWNED ELECTRIC UTILITY INCURS AND CHARGES
17 TO SERVE AN ELECTRIC CUSTOMER OVER THE CONTRACT PERIOD, WHICH
18 ADDITIONAL COSTS WOULD NOT HAVE BEEN INCURRED IF THE CUSTOMER
19 DID NOT TAKE SERVICE ON THE UTILITY'S SYSTEM, INCLUDING, BUT NOT
20 LIMITED TO:

- 21 (I) FUEL;
- 22 (II) PURCHASED POWER;
- 23 (III) OPERATING AND MAINTENANCE COSTS;
- 24 (IV) CAPITAL ADDITIONS;
- 25 (V) OVERHEAD;
- 26 (VI) TAXES; AND
- 27 (VII) FEES.

1 (a) (b) "Qualifying commercial or industrial customer":

2 (I) Means a utility customer that:

3 (A) Agrees to: Locate commercial or industrial operations in
4 Colorado and add at least three megawatts of new load at a single
5 location, or expand existing commercial or industrial operations in
6 Colorado and add at least three megawatts of new load at a single
7 location; and

8 (B) Demonstrates, to the satisfaction of the investor-owned
9 ELECTRIC utility, subject to review by the commission, that: The cost of
10 electricity is a critical consideration in deciding where to locate new or
11 expand existing operations, and the availability of economic development
12 rates, either on their own or in combination with other economic
13 development incentives, is a substantial factor in the customer's decision
14 to locate new or expand existing business operations in Colorado; AND

15 (II) Does not include a customer that agrees to relocate or
16 otherwise transfer its existing load of at least three megawatts from the
17 service territory of another public utility, as defined in section 40-1-103,
18 into the service territory of the utility offering economic development
19 rates.

20 (c) "SOCIETAL ECONOMIC BENEFIT TEST" MEANS A TEST THAT
21 TAKES INTO ACCOUNT THE ECONOMIC BENEFITS RECEIVED BY ALL
22 CUSTOMER CLASSES SERVED BY THE UTILITY AND THE ECONOMIC
23 DEVELOPMENT BENEFITS TO THE SURROUNDING COMMUNITY THAT RESULT
24 FROM SERVING A QUALIFYING COMMERCIAL OR INDUSTRIAL CUSTOMER
25 WITH AN ECONOMIC DEVELOPMENT RATE.

26 (b) (d) "Voluntary ~~renewable~~ CLEAN energy program or service
27 offering" means a program or other service offering approved by the

1 commission that allows a QUALIFYING commercial or industrial customer
2 access to eligible energy resources, as that term is defined in section
3 40-2-124 (1)(a), on a voluntary basis, on terms and conditions deemed
4 necessary by the commission. For a voluntary ~~renewable~~ CLEAN energy
5 program or service offering to be expanded, it must have been approved
6 by the commission prior to the expansion request of a QUALIFYING
7 commercial or industrial customer pursuant to subsection (6)(d)(I) of this
8 section.

9 (8) ~~This subsection (8) and~~ Subsections (6) and (7) of this section
10 AND THIS SUBSECTION (8) are repealed, effective January 1, ~~2028~~ 2035.

11 **SECTION 2. Applicability.** This act applies to applications filed
12 on or after the effective date of this act.

13 **SECTION 3. Safety clause.** The general assembly finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety or for appropriations for
16 the support and maintenance of the departments of the state and state
17 institutions.