

CHAPTER 65

PUBLIC UTILITIES

HOUSE BILL 08-1160

BY REPRESENTATIVE(S) Solano, Green, Madden, Benefield, Borodkin, Ferrandino, Fischer, Kefalas, Kerr A., Labuda, Levy, Marshall, McGihon, Merrifield, Peniston, Garza-Hicks, Pommer, Riesberg, Todd, Weissmann, Butcher, Carroll M., Carroll T., Frangas, Jahn, Looper, Massey, McFadyen, Primavera, Rice, Roberts, Romanoff, Rose, Scanlan, Soper, Stafford, Summers, Witwer, Hodge, and Middleton;
also SENATOR(S) Shaffer and Isgar, Tochtrop, Williams, Tupa, Bacon, Boyd, Gibbs, Gordon, Groff, Schwartz, Veiga, and Windels.

AN ACT**CONCERNING NET METERING FOR CUSTOMER-GENERATORS OF ELECTRIC UTILITIES.**

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

SECTION 1. Repeal. Part 3 of article 9.5 of title 40, Colorado Revised Statutes, is repealed.

SECTION 2. Part 1 of article 9.5 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-9.5-118. Net metering - rules. (1) Definitions. FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CUSTOMER-GENERATOR" MEANS AN END-USE ELECTRICITY CUSTOMER THAT GENERATES ELECTRICITY ON THE CUSTOMER'S SIDE OF THE METER USING ELIGIBLE ENERGY RESOURCES.

(b) "ELIGIBLE ENERGY RESOURCES" HAS THE MEANING ESTABLISHED IN SECTION 40-2-124.

(2) EACH COOPERATIVE ELECTRIC ASSOCIATION SHALL ALLOW A CUSTOMER-GENERATOR'S RETAIL ELECTRICITY CONSUMPTION TO BE OFFSET BY THE ELECTRICITY GENERATED FROM ELIGIBLE ENERGY RESOURCES ON THE CUSTOMER-GENERATOR'S SIDE OF THE METER THAT ARE INTERCONNECTED WITH THE FACILITIES OF THE COOPERATIVE ELECTRIC ASSOCIATION, SUBJECT TO THE

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

FOLLOWING:

(a) **Monthly excess generation.** IF A CUSTOMER-GENERATOR GENERATES ELECTRICITY IN EXCESS OF THE CUSTOMER-GENERATOR'S MONTHLY CONSUMPTION, ALL SUCH EXCESS ENERGY, EXPRESSED IN KILOWATT-HOURS, SHALL BE CARRIED FORWARD FROM MONTH TO MONTH AND CREDITED AT A RATIO OF ONE TO ONE AGAINST THE CUSTOMER-GENERATOR'S ENERGY CONSUMPTION, EXPRESSED IN KILOWATT-HOURS, IN SUBSEQUENT MONTHS.

(b) **Annual excess generation.** WITHIN SIXTY DAYS AFTER THE END OF EACH ANNUAL PERIOD, OR WITHIN SIXTY DAYS AFTER THE CUSTOMER-GENERATOR TERMINATES ITS RETAIL SERVICE, THE COOPERATIVE ELECTRIC ASSOCIATION SHALL ACCOUNT FOR ANY EXCESS ENERGY GENERATION, EXPRESSED IN KILOWATT-HOURS, ACCRUED BY THE CUSTOMER-GENERATOR AND SHALL CREDIT SUCH EXCESS GENERATION TO THE CUSTOMER-GENERATOR IN A MANNER DEEMED APPROPRIATE BY THE COOPERATIVE ELECTRIC ASSOCIATION.

(c) **Nondiscriminatory rates.** A COOPERATIVE ELECTRIC ASSOCIATION SHALL PROVIDE NET METERING SERVICE AT NONDISCRIMINATORY RATES.

(d) **Interconnection standards.** A COOPERATIVE ELECTRIC ASSOCIATION AND A CUSTOMER-GENERATOR SHALL COMPLY WITH THE INTERCONNECTION STANDARDS AND INSURANCE REQUIREMENTS ESTABLISHED IN THE RULES PROMULGATED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO SECTION 40-2-124; EXCEPT THAT THE COOPERATIVE ELECTRIC ASSOCIATION MAY REDUCE OR WAIVE ANY OF THE INSURANCE REQUIREMENTS, AND EXCEPT THAT THE PUBLIC UTILITIES COMMISSION SHALL INITIATE A RULE-MAKING PROCEEDING NO LATER THAN OCTOBER 1, 2008, FOR THE PURPOSE OF ADDRESSING COOPERATIVE ELECTRIC ASSOCIATION SYSTEM ISSUES IN ITS SMALL GENERATOR INTERCONNECTION PROCEDURES. A COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT PREVENT OR UNREASONABLY BURDEN THE INSTALLATION OF A NET METERING SYSTEM IF SUCH SYSTEM INCLUDES PROTECTIVE EQUIPMENT THAT PREVENTS ANY EXPORT OF CUSTOMER-GENERATED ELECTRICITY FROM THE CUSTOMER'S SIDE OF THE METER.

(e) (I) **Size specifications.** EACH COOPERATIVE ELECTRIC ASSOCIATION SHALL ALLOW:

(A) RESIDENTIAL CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO NET METERING UP TO TEN KILOWATTS; AND

(B) COMMERCIAL OR INDUSTRIAL CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO NET METERING UP TO TWENTY-FIVE KILOWATTS.

(II) EACH COOPERATIVE ELECTRIC ASSOCIATION MAY ALLOW CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO NET METERING IN AMOUNTS IN EXCESS OF THE MINIMUM AMOUNTS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e). IF THE COOPERATIVE ELECTRIC ASSOCIATION DENIES INTERCONNECTION TO A CUSTOMER-GENERATOR THAT HAS REQUESTED INTERCONNECTION OF A SYSTEM WITH A CAPACITY OF TWENTY-FIVE KILOWATTS OR LARGER, THE ASSOCIATION SHALL PROVIDE A WRITTEN TECHNICAL OR ECONOMIC EXPLANATION OF SUCH DENIAL TO THE CUSTOMER.

(3) THE COOPERATIVE ELECTRIC ASSOCIATION AND THE CUSTOMER-GENERATOR SHALL INDEMNIFY, DEFEND, AND SAVE THE OTHER PARTY HARMLESS FROM ANY AND ALL DAMAGES, LOSSES, OR CLAIMS, INCLUDING CLAIMS AND ACTIONS RELATING TO INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO PROPERTY, DEMAND, SUITS, RECOVERIES, COSTS AND EXPENSES, COURT COSTS, ATTORNEY FEES, AND ALL OTHER OBLIGATIONS BY OR TO THIRD PARTIES, ARISING OUT OF OR RESULTING FROM THE OTHER PARTY'S ACTION OR FAILURE TO ACT IN RELATION TO ANY OBLIGATIONS UNDER THIS SECTION, EXCEPT IN CASES OF GROSS NEGLIGENCE OR INTENTIONAL WRONGDOING BY THE INDEMNIFIED PARTY.

SECTION 3. 40-2-124, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-2-124. Renewable energy standard - definitions - net metering.

(7) (a) **Definitions.** FOR PURPOSES OF THIS SUBSECTION (7), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "CUSTOMER-GENERATOR" MEANS AN END-USE ELECTRICITY CUSTOMER THAT GENERATES ELECTRICITY ON THE CUSTOMER'S SIDE OF THE METER USING ELIGIBLE ENERGY RESOURCES.

(II) "MUNICIPALLY OWNED UTILITY" MEANS A MUNICIPALLY OWNED UTILITY THAT SERVES FIVE THOUSAND CUSTOMERS OR MORE.

(b) EACH MUNICIPALLY OWNED UTILITY SHALL ALLOW A CUSTOMER-GENERATOR'S RETAIL ELECTRICITY CONSUMPTION TO BE OFFSET BY THE ELECTRICITY GENERATED FROM ELIGIBLE ENERGY RESOURCES ON THE CUSTOMER-GENERATOR'S SIDE OF THE METER THAT ARE INTERCONNECTED WITH THE FACILITIES OF THE MUNICIPALLY OWNED UTILITY, SUBJECT TO THE FOLLOWING:

(I) **Monthly excess generation.** IF A CUSTOMER-GENERATOR GENERATES ELECTRICITY IN EXCESS OF THE CUSTOMER-GENERATOR'S MONTHLY CONSUMPTION, ALL SUCH EXCESS ENERGY, EXPRESSED IN KILOWATT-HOURS, SHALL BE CARRIED FORWARD FROM MONTH TO MONTH AND CREDITED AT A RATIO OF ONE TO ONE AGAINST THE CUSTOMER-GENERATOR'S ENERGY CONSUMPTION, EXPRESSED IN KILOWATT-HOURS, IN SUBSEQUENT MONTHS.

(II) **Annual excess generation.** WITHIN SIXTY DAYS AFTER THE END OF EACH ANNUAL PERIOD, OR WITHIN SIXTY DAYS AFTER THE CUSTOMER-GENERATOR TERMINATES ITS RETAIL SERVICE, THE MUNICIPALLY OWNED UTILITY SHALL ACCOUNT FOR ANY EXCESS ENERGY GENERATION, EXPRESSED IN KILOWATT-HOURS, ACCRUED BY THE CUSTOMER-GENERATOR AND SHALL CREDIT SUCH EXCESS GENERATION TO THE CUSTOMER-GENERATOR IN A MANNER DEEMED APPROPRIATE BY THE MUNICIPALLY OWNED UTILITY.

(III) **Nondiscriminatory rates.** A MUNICIPALLY OWNED UTILITY SHALL PROVIDE NET METERING SERVICE AT NONDISCRIMINATORY RATES.

(IV) **Interconnection standards.** EACH MUNICIPALLY OWNED UTILITY SHALL ADOPT AND POST SMALL GENERATION INTERCONNECTION STANDARDS AND INSURANCE REQUIREMENTS THAT ARE FUNCTIONALLY SIMILAR TO THOSE

ESTABLISHED IN THE RULES PROMULGATED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO THIS SECTION; EXCEPT THAT THE MUNICIPALLY OWNED UTILITY MAY REDUCE OR WAIVE ANY OF THE INSURANCE REQUIREMENTS. IF ANY CUSTOMER-GENERATOR SUBJECT TO THE SIZE SPECIFICATIONS SPECIFIED IN SUBPARAGRAPH (V) OF THIS PARAGRAPH (b) IS DENIED INTERCONNECTION BY THE MUNICIPALLY OWNED UTILITY, THE UTILITY SHALL PROVIDE A WRITTEN TECHNICAL OR ECONOMIC EXPLANATION OF SUCH DENIAL TO THE CUSTOMER.

(V) **Size specifications.** EACH MUNICIPALLY OWNED UTILITY MAY ALLOW CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO NET METERING IN AMOUNTS IN EXCESS OF THOSE SPECIFIED IN THIS SUBPARAGRAPH (V), AND SHALL ALLOW:

(A) RESIDENTIAL CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO NET METERING UP TO TEN KILOWATTS; AND

(B) COMMERCIAL OR INDUSTRIAL CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO NET METERING UP TO TWENTY-FIVE KILOWATTS.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 26, 2008