

CHAPTER 175

**PUBLIC UTILITIES**

SENATE BILL 09-039

BY SENATOR(S) Schwartz, Boyd, Carroll M., Foster, Isgar, Veiga, White, Williams;  
also REPRESENTATIVE(S) Curry, Fischer, Frangas, Green, Labuda, Middleton.

**AN ACT**

**CONCERNING THE DISCRETIONARY AUTHORITY OF COOPERATIVE ELECTRIC ASSOCIATIONS TO ESTABLISH REASONABLE GRADUATED RATES FOR INCREASED ENERGY CONSUMPTION BY RESIDENTIAL CUSTOMERS.**

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

**SECTION 1. Legislative declaration.** The general assembly declares that nothing in this act is intended to limit the power or authority of the Colorado public utilities commission.

**SECTION 2.** 40-9.5-106 (2), Colorado Revised Statutes, is amended to read:

**40-9.5-106. Prohibited acts.** (2) No cooperative electric association, as to rates, charges, service, or facilities or as to any other matter, shall make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No cooperative electric association shall establish or maintain any unreasonable difference as to rates, charges, service, or facilities or as to any other matter, either between localities or between any class of service. Notwithstanding ~~the provisions of~~ section 40-6-108 (1) (b), any complaint arising out of this subsection (2) signed by one or more customers of such association shall be resolved by the public utilities commission in accordance with the hearing and enforcement procedures established in articles 6 and 7 of this title. A COOPERATIVE ELECTRIC ASSOCIATION MAY APPROVE ANY REASONABLE RATE, CHARGE, SERVICE, CLASSIFICATION, OR FACILITY THAT ESTABLISHES A GRADUATED RATE FOR INCREASED ENERGY CONSUMPTION, FOR ENERGY CONSERVATION AND ENERGY EFFICIENCY PURPOSES, BY RESIDENTIAL CUSTOMERS THAT IS REVENUE-NEUTRAL FOR THE CLASS, WHERE REVENUE INCLUDES MARGINS, EXPENSES, RIDERS, OR CHARGES AS APPROVED BY THE COOPERATIVE ELECTRIC ASSOCIATION. THE IMPLEMENTATION OF SUCH RATE, CHARGE, SERVICE,

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

CLASSIFICATION, OR FACILITY BY A COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT BE DEEMED TO SUBJECT ANY PERSON OR CORPORATION TO ANY PREJUDICE, DISADVANTAGE, OR UNDUE DISCRIMINATION. IN ADOPTING SUCH RATE, A COOPERATIVE ELECTRIC ASSOCIATION SHALL GIVE DUE CONSIDERATION TO THE IMPACT OF SUCH RATES ON LOW-INCOME CUSTOMERS. A COOPERATIVE ELECTRIC ASSOCIATION MAY UTILIZE A COMMUNITY ENERGY FUND AS CONTEMPLATED BY SECTION 40-2-127 FOR ENERGY EFFICIENCY, ENERGY CONSERVATION, WEATHERIZATION, AND RENEWABLE ENERGY PURPOSES. A COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT APPLY SUCH RATE TO CONSUMERS THAT HAVE SINGLE METERS THAT RECORD ENERGY CONSUMPTION FOR COMBINED RESIDENTIAL AND AGRICULTURAL USES.

**SECTION 3. Act subject to petition - effective date - applicability.** (1) 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 5, 2009, if adjournment sine die is on May 6, 2009); 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.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act.

Approved: April 22, 2009