

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

HB26-1326 be amended as follows:

1 Amend reengrossed bill, page 22, after line 21 insert:

2 "SECTION 19. In Colorado Revised Statutes, 40-2-123, **add** (6)
3 and (7) as follows:

4 **40-2-123. Energy technologies - consideration by commission**
5 **- incentives - demonstration projects - commission may require**
6 **specific customer-facing programs - legislative declaration -**
7 **definitions.**

8 (6) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

9 (I) SINCE 2007, COLORADO HAS ENACTED SEVERAL STATUTES
10 THAT DIRECT COMMISSION-REGULATED INVESTOR-OWNED UTILITIES TO
11 IMPLEMENT CUSTOMER-FACING PROGRAMS AIMED AT REDUCING ENERGY
12 BILLS, REDUCING ENERGY CONSUMPTION, OR SUPPORTING THE TRANSITION
13 TO LOWER- OR ZERO-CARBON-EMITTING TECHNOLOGIES;

14 (II) SUCH CUSTOMER-FACING PROGRAMS INCLUDE DEMAND-SIDE
15 MANAGEMENT, BENEFICIAL ELECTRIFICATION, CLEAN HEAT PLANS, AND
16 TRANSPORTATION ELECTRIFICATION;

17 (III) FOR MANY OF THESE PROGRAMS, UTILITIES MAY LACK A
18 NATURAL INCENTIVE TO TAKE CERTAIN ACTIONS OR IMPLEMENT THESE
19 PROGRAMS EFFECTIVELY. ADDITIONALLY, DUE TO STAFFING OR
20 ECONOMIES OF SCALE, SMALLER UTILITIES MAY LACK THE ABILITY TO
21 OPERATE SUCH PROGRAMS AT A REASONABLE COST TO RATEPAYERS.

22 (IV) CERTAIN RATEPAYER AFFORDABILITY PROGRAMS ARE
23 IMPLEMENTED BY A THIRD PARTY THAT WAS NOT SELECTED THROUGH A
24 COMPETITIVE PROCESS, AND THERE IS LIMITED OVERSIGHT OF THE THIRD
25 PARTY'S USE OF RATEPAYER DOLLARS;

26 (V) ESTABLISHED STATE ENTERPRISES, SUCH AS THE BUILDING
27 DECARBONIZATION ENTERPRISE CREATED IN SECTION 24-38.5-125, MAY
28 PROVIDE AN ALTERNATIVE OPTION FOR ADMINISTERING COMPETITIVE
29 SOLICITATIONS FOR THIRD-PARTY PROGRAM ADMINISTRATION; AND

30 (VI) THEREFORE, THE COMMISSION SHOULD BE AUTHORIZED TO
31 REQUIRE COMMISSION-REGULATED INVESTOR-OWNED UTILITIES TO
32 ENGAGE ONE OR MORE THIRD PARTIES TO ADMINISTER SPECIFIC
33 CUSTOMER-FACING PROGRAMS IF THE COMMISSION DEEMS THE USE OF ONE
34 OR MORE THIRD PARTIES PRUDENT AND IN THE BEST INTEREST OF
35 RATEPAYERS. IN ADDITION, THE COMMISSION SHOULD BE AUTHORIZED TO
36 REQUIRE THE USE OF A COMPETITIVE BIDDING PROCESS TO PROCURE THE
37 SERVICES OF A THIRD-PARTY ADMINISTRATOR.

38 (b) IN AN ADJUDICATORY PROCEEDING, THE COMMISSION MAY
39 REQUIRE A COMMISSION-REGULATED INVESTOR-OWNED UTILITY TO
40 ENGAGE ONE OR MORE THIRD PARTIES TO ADMINISTER SPECIFIC

1 CUSTOMER-FACING PROGRAMS IF THE COMMISSION DEEMS THE USE OF ONE
2 OR MORE THIRD PARTIES PRUDENT AND IN THE BEST INTEREST OF
3 RATEPAYERS. THE COMMISSION MAY REQUIRE A COMPETITIVE BIDDING
4 PROCESS TO PROCURE THE SERVICES OF A THIRD-PARTY ADMINISTRATOR.

5 (c) AS USED IN THIS SUBSECTION (6), "CUSTOMER-FACING
6 PROGRAM" MEANS A PROGRAM AIMED AT REDUCING ENERGY BILLS,
7 REDUCING ENERGY CONSUMPTION, OR SUPPORTING THE TRANSITION TO
8 LOWER- OR ZERO-CARBON-EMITTING TECHNOLOGIES.

9 (7)(a) A COMMISSION-REGULATED INVESTOR-OWNED UTILITY MAY
10 ENTER INTO A THIRD-PARTY AGREEMENT TO FACILITATE
11 CUSTOMER-FACING PROGRAMS, SUBJECT TO COMMISSION APPROVAL. THE
12 COMMISSION MAY DIRECT A COMMISSION-REGULATED INVESTOR-OWNED
13 UTILITY TO PROPOSE TO THE COMMISSION THE USE OF THIRD-PARTY
14 ADMINISTRATION FOR CUSTOMER-FACING PROGRAMS.

15 (b) IN A COMMISSION-REGULATED INVESTOR-OWNED UTILITY'S
16 PROPOSAL TO UTILIZE THIRD-PARTY ADMINISTRATION OF A
17 CUSTOMER-FACING PROGRAM, THE UTILITY SHALL EXPLAIN TO THE
18 COMMISSION HOW THE UTILITY CONSIDERED THE FOLLOWING IN RELATION
19 TO THE CUSTOMER-FACING PROGRAM:

20 (I) THE POTENTIAL FOR PROGRAM SUCCESS BASED ON AN
21 ASSESSMENT OF SIMILAR ADMINISTRATION STRUCTURES THAT OTHER
22 UTILITIES USE FOR SIMILAR CUSTOMER-FACING PROGRAMS;

23 (II) THE ADMINISTRATIVE COST RATIO OF ADMINISTERING REBATES
24 VERSUS THE INCENTIVES PAID OUT AS PART OF THE PROGRAM;

25 (III) THE TIME REQUIRED TO FULFILL CUSTOMER REBATE
26 REQUESTS; AND

27 (IV) PRIOR PROGRAM PERFORMANCE UNDER A UTILITY-LED
28 MODEL.

29 (c) IN AN APPLICATION TO THE COMMISSION TO ENTER INTO A
30 THIRD-PARTY AGREEMENT TO FACILITATE CUSTOMER-FACING PROGRAMS,
31 THE UTILITY MAY NOT:

32 (I) FORCE A LAYOFF OF, OR UNILATERALLY CHANGE THE TERMS OF
33 EMPLOYMENT FOR, THE UTILITY EMPLOYEES WHO, IN WHOLE OR IN PART,
34 PERFORM THE ADMINISTRATIVE OR SERVICE FUNCTIONS FOR THE SPECIFIC
35 PROGRAM, SUBJECT TO A THIRD-PARTY AGREEMENT, AND WHO ARE
36 COVERED BY A COLLECTIVE BARGAINING AGREEMENT UNLESS THE UTILITY
37 AND THE LABOR UNION REPRESENTING THE EMPLOYEES COME TO AN
38 AGREEMENT TO REASSIGN THE EMPLOYEES TO OTHER POSITIONS WITHIN
39 THE UTILITY AT COMPARABLE PAY AND BENEFITS AS PER THE TERMS OF
40 THE COLLECTIVE BARGAINING AGREEMENT AND ANY RELATED COMPANY
41 POLICIES; AND

42 (II) PROPOSE TO ENTER INTO ANY THIRD-PARTY ADMINISTRATOR
43 AGREEMENTS THAT CANCEL OR MODIFY AGREEMENTS WITH

1 CONSTRUCTION OR UTILITY CONSTRUCTION CONTRACTORS WHO ARE
2 UNDER A CURRENT CONTRACT TO PERFORM WORK DIRECTLY FOR THE
3 UTILITY ON A DEMAND-SIDE MANAGEMENT, BENEFICIAL ELECTRIFICATION,
4 CLEAN HEAT, OR TRANSPORTATION ELECTRIFICATION CUSTOMER-FACING
5 PROGRAM. THE CONTRACTS SHALL REMAIN IN FORCE EVEN IF A
6 THIRD-PARTY ADMINISTRATOR IS CONTRACTED TO ADMINISTER THE
7 CUSTOMER-FACING PROGRAM. FUTURE CONSIDERATIONS AS TO WHETHER
8 TO EXTEND OR RENEW THE CONSTRUCTION OR UTILITY CONSTRUCTION
9 CONTRACTORS' AGREEMENTS CAN REMAIN WITH THE UTILITY, AND THE
10 UTILITY CAN REMAIN THE CLIENT OF RECORD FOR THE CONSTRUCTION OR
11 UTILITY CONSTRUCTION CONTRACTORS. PROGRAMS THAT DIRECT A
12 RESIDENTIAL UTILITY CUSTOMER TO ENGAGE A CONTRACTOR DIRECTLY
13 ARE EXEMPT FROM THIS SUBSECTION (7)(c)(II).

14 (d) SUBJECT TO COMMISSION APPROVAL BASED ON A
15 DEMONSTRATION OF THE FACTORS SET FORTH IN SUBSECTION (7)(b) OF
16 THIS SECTION, A COMMISSION-REGULATED INVESTOR-OWNED UTILITY
17 SHALL UTILIZE THIRD-PARTY ADMINISTRATION FOR ANY
18 CUSTOMER-FACING PROGRAM.

19 (e) A THIRD-PARTY ADMINISTRATOR OF A CUSTOMER-FACING
20 PROGRAM IS DIRECTLY RESPONSIBLE FOR COMPLIANCE WITH, AND SHALL
21 ADHERE TO APPLICABLE LABOR STANDARDS FOR, CONSTRUCTION- OR
22 UTILITY-CONSTRUCTION-SPECIFIC WORK THAT WOULD OTHERWISE BE
23 APPLICABLE TO THE UTILITY UNDER COLORADO LAW."

24 Renumber succeeding sections accordingly.

25 Page 33, lines 24 and 25, strike "**repeal** (7)(a); and".

26 Page 34, strike lines 1 through 8.

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