

First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 03-0737.01 Duane Gall

SENATE BILL 03-129

SENATE SPONSORSHIP

Reeves

HOUSE SPONSORSHIP

(None)

Senate Committees

Business Affairs & Labor

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO LIMIT THE DEMAND FOR ELECTRICITY,
102 AND, IN CONNECTION THEREWITH, DIRECTING THE PUBLIC
103 UTILITIES COMMISSION TO ADOPT ENERGY EFFICIENCY
104 PERFORMANCE STANDARDS FOR ELECTRIC UTILITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires large electric utilities to reduce their overall level of customer demand by a total of 0.3% in 2004, 0.65% in 2005, and 1% each year thereafter through 2020. Requires a utility to achieve at least 80% of these reductions through demand-side management (DSM) and allows the remainder to be achieved by the purchase of energy savings

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

credits. Specifies that DSM programs must be cost-effective.

Directs the public utilities commission (PUC) to implement the system of demand reduction by adopting specific target figures, based on projected future electricity sales, at least every 5 years and by reviewing annual reports filed by utilities. Allows utilities to recover their costs through rates or, in the case of municipally owned and cooperatively owned utilities, through procedures determined by their board of directors or other governing body.

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

2 **SECTION 1.** Article 4 of title 40, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 2**

5 **ENERGY EFFICIENCY**

6 **PERFORMANCE STANDARDS**

7 **40-4-201. Purpose and scope.** THIS PART 2 IS INTENDED TO
8 CONSERVE THE STATE'S NATURAL RESOURCES, REDUCE POLLUTION AND
9 WATER CONSUMPTION, AND ENHANCE THE RELIABILITY OF ELECTRIC
10 SUPPLY BY ACTIVELY PROMOTING THE USE OF AVAILABLE ENERGY
11 EFFICIENCY MEASURES BY UTILITIES SERVING A MAJORITY OF COLORADO'S
12 POPULATION. ELECTRIC UTILITIES OPERATING IN COLORADO THAT ARE
13 NOT "QUALIFYING UTILITIES" COVERED BY THIS PART 2 ARE NEVERTHELESS
14 ENCOURAGED, THOUGH NOT REQUIRED, TO IMPLEMENT COST-EFFECTIVE
15 DEMAND-SIDE MANAGEMENT PROGRAMS AND TO MEET THE ENERGY
16 SAVINGS TARGETS SET FORTH IN THIS PART 2.

17 **40-4-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
18 CONTEXT OTHERWISE REQUIRES:

19 (1) "COST-EFFECTIVE" MEANS THAT THE ECONOMIC VALUE OF ALL
20 BENEFITS EXCEEDS THE ECONOMIC VALUE OF ALL COSTS, ON A NET
21 PRESENT VALUE BASIS.

1 (2) "DEMAND-SIDE MANAGEMENT" MEANS THE MANAGEMENT OF
2 CUSTOMER DEMAND THROUGH THE IMPLEMENTATION OF ENERGY
3 EFFICIENCY AND LOAD MANAGEMENT DEVICES ON AND IN THE PREMISES OF
4 RESIDENTIAL, COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, AND
5 GOVERNMENT CUSTOMERS.

6 (3) "ELECTRIC UTILITY" MEANS A CORPORATION, COMPANY,
7 ASSOCIATION, PARTNERSHIP, COOPERATIVE, MUNICIPALITY OR
8 MUNICIPALLY-OWNED ENTITY, OR OTHER PERSON THAT PROVIDES RETAIL
9 ELECTRIC SERVICE TO CONSUMERS AND BUSINESSES IN COLORADO.

10 (4) "ENERGY EFFICIENCY" MEANS THE USE OF TECHNOLOGIES,
11 MANAGEMENT PRACTICES, OR OTHER STRATEGIES THAT REDUCE
12 ELECTRICITY CONSUMPTION BY CONSUMERS OR BUSINESSES.

13 (5) "ENERGY EFFICIENCY PERFORMANCE STANDARD" MEANS AN
14 ENERGY SAVINGS REQUIREMENT THAT MUST BE MET BY QUALIFYING
15 UTILITIES THROUGH THEIR DEMAND-SIDE MANAGEMENT PROGRAMS AND
16 PURCHASE OF ENERGY SAVINGS CREDITS.

17 (6) "ENERGY SAVINGS CREDITS" MEANS ELECTRICITY SAVINGS,
18 EXPRESSED IN KILOWATT-HOURS PER YEAR, RESULTING FROM ENERGY
19 EFFICIENCY PROJECTS IMPLEMENTED BY BUSINESSES OR ENERGY SERVICE
20 COMPANIES.

21 (7) "ENERGY SERVICE COMPANY" MEANS A PRIVATELY OWNED
22 COMPANY OR PARTNERSHIP THAT SELLS, INSTALLS, OR FINANCES ENERGY
23 EFFICIENCY AND LOAD MANAGEMENT DEVICES.

24 (8) "LOAD MANAGEMENT" MEANS THE USE OF TECHNOLOGIES,
25 MANAGEMENT PRACTICES, OR OTHER STRATEGIES TO SHIFT ELECTRIC LOAD
26 FROM PERIODS OF HIGHER DEMAND TO PERIODS OF LOWER DEMAND.

27 (9) "QUALIFYING UTILITY" MEANS AN ELECTRIC UTILITY THAT

1 PROVIDES AT LEAST FIVE BILLION KILOWATT-HOURS OF RETAIL ELECTRIC
2 SERVICE TO CONSUMERS AND BUSINESSES IN COLORADO IN ANY CALENDAR
3 YEAR.

4 (10) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF
5 COST-EFFECTIVENESS, AS DEFINED IN RULES ADOPTED BY THE PUBLIC
6 UTILITIES COMMISSION.

7 **40-4-203. Energy efficiency performance standards.** (1) THE
8 COMMISSION SHALL ESTABLISH ENERGY EFFICIENCY PERFORMANCE
9 STANDARDS FOR EACH QUALIFYING UTILITY THAT WAS OPERATING IN
10 COLORADO AS OF JANUARY 1, 2003. THE PERFORMANCE STANDARDS
11 SHALL TAKE EFFECT STARTING JANUARY 1, 2004, AND SHALL REPRESENT
12 A REDUCTION IN OVERALL ANNUAL SALES OF ELECTRICITY THAT IS AS
13 CLOSE AS IS PRACTICABLE TO A TOTAL OF THREE-TENTHS OF ONE PERCENT
14 IN 2004, A TOTAL OF SIXTY-FIVE ONE-HUNDREDTHS OF ONE PERCENT IN
15 2005, AND A TOTAL OF ONE PERCENT IN EACH OF THE YEARS 2006
16 THROUGH 2020.

17 (2) (a) ON OR BEFORE DECEMBER 31, 2003, THE COMMISSION
18 SHALL SET THE PERFORMANCE STANDARDS FOR 2004 THROUGH 2010
19 BASED ON PROJECTED FUTURE ELECTRICITY SALES OF EACH QUALIFYING
20 UTILITY AT THAT TIME.

21 (b) ON OR BEFORE DECEMBER 31, 2010, THE COMMISSION SHALL
22 SET THE PERFORMANCE STANDARDS FOR 2011 THROUGH 2015 BASED ON
23 PROJECTED FUTURE ELECTRICITY SALES OF EACH QUALIFYING UTILITY AT
24 THAT TIME.

25 (c) ON OR BEFORE DECEMBER 31, 2015, THE COMMISSION SHALL
26 SET THE PERFORMANCE STANDARDS FOR 2016 THROUGH 2020 BASED ON
27 PROJECTED FUTURE ELECTRICITY SALES OF EACH QUALIFYING UTILITY AT

1 THAT TIME.

2 (3) IN PROJECTING FUTURE ELECTRICITY SALES, THE COMMISSION
3 SHALL CONSIDER PAST TRENDS IN ELECTRICITY SALES AND ANY FORECASTS
4 OF FUTURE ELECTRICITY SALES.

5 **40-4-204. Methods to meet standards - demand-side**
6 **management - energy savings credits.** (1) A QUALIFYING UTILITY
7 SHALL MEET ITS ENERGY EFFICIENCY PERFORMANCE STANDARDS EACH
8 YEAR IN ACCORDANCE WITH SUBSECTIONS (2) AND (3) OF THIS SECTION.

9 (2) (a) DEMAND-SIDE MANAGEMENT PROGRAMS SHALL BE MADE
10 AVAILABLE TO ALL CLASSES OF CUSTOMERS.

11 (b) AT LEAST EIGHTY PERCENT OF THE ENERGY EFFICIENCY
12 PERFORMANCE STANDARDS IN ANY PARTICULAR YEAR SHALL BE MET
13 THROUGH SAVINGS FROM DEMAND-SIDE MANAGEMENT PROGRAMS
14 IMPLEMENTED THAT YEAR BY A QUALIFYING UTILITY OR ITS
15 CONTRACTORS.

16 (c) ELIGIBLE DEMAND-SIDE MANAGEMENT PROGRAMS INCLUDE
17 FINANCIAL INCENTIVE, EDUCATION AND TRAINING, TECHNICAL
18 ASSISTANCE, DIRECT INSTALLATION, AND OTHER TYPES OF PROGRAMS
19 THAT ARE DESIGNED TO PROVIDE KILOWATT-HOUR SAVINGS BY
20 CONSUMERS AND BUSINESSES.

21 (d) WHEN IMPLEMENTING DEMAND-SIDE MANAGEMENT
22 PROGRAMS, A QUALIFYING UTILITY IS ENCOURAGED BUT NOT REQUIRED TO
23 USE COMPETITIVE PROCUREMENT PROCESSES.

24 (e) A QUALIFYING UTILITY SHALL OPERATE DEMAND-SIDE
25 MANAGEMENT PROGRAMS THAT, TAKEN IN COMBINATION, ARE
26 COST-EFFECTIVE BASED ON THE TOTAL RESOURCE COST TEST.

27 (3) A QUALIFYING UTILITY SHALL BE ALLOWED TO MEET UP TO

1 TWENTY PERCENT OF ITS ENERGY EFFICIENCY PERFORMANCE STANDARDS
2 IN ANY PARTICULAR YEAR THROUGH THE PURCHASE OF ENERGY SAVINGS
3 CREDITS FROM ENERGY EFFICIENCY PROJECTS IMPLEMENTED BY
4 BUSINESSES OR ENERGY SERVICE COMPANIES OPERATING IN ITS SERVICE
5 AREA; EXCEPT THAT AN ENERGY EFFICIENCY PROJECT PROVIDING ENERGY
6 SAVINGS CREDITS MAY NOT ALSO BE COUNTED AS PROVIDING ENERGY
7 SAVINGS FROM A UTILITY-SPONSORED DEMAND-SIDE MANAGEMENT
8 PROGRAM.

9 (4) A QUALIFYING UTILITY THAT FAILS TO MEET ITS ENERGY
10 EFFICIENCY PERFORMANCE STANDARDS IN ANY PARTICULAR YEAR SHALL
11 BE REQUIRED TO ACHIEVE ADDITIONAL ENERGY SAVINGS, EQUAL TO THE
12 SHORTFALL, WITHIN THE FOLLOWING TWO YEARS. THE ADDITIONAL
13 ENERGY SAVINGS SHALL BE ADDED TO THE ENERGY EFFICIENCY
14 PERFORMANCE STANDARDS THAT APPLY IN THOSE YEARS.

15 (5) (a) THE COMMISSION MAY ISSUE AN ORDER TO A QUALIFYING
16 UTILITY THAT IS INVESTOR-OWNED TO CARRY OUT SPECIFIED DEMAND-SIDE
17 MANAGEMENT PROGRAMS AND OTHER ACTIVITIES IF THE COMMISSION
18 DETERMINES THAT THE UTILITY IS NOT ADEQUATELY CARRYING OUT ITS
19 RESPONSIBILITIES UNDER THIS PART 2.

20 (b) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY SHALL
21 HAVE PRIMARY RESPONSIBILITY FOR IMPLEMENTATION AND OVERSIGHT OF
22 THE ENERGY EFFICIENCY PERFORMANCE STANDARDS FOR ANY QUALIFYING
23 UTILITY THAT IS A COOPERATIVE OR MUNICIPAL UTILITY.

24 **40-4-205. Reports - oversight by commission.** (1) (a) EACH
25 QUALIFYING UTILITY SHALL ANNUALLY PREPARE AND FILE WITH THE
26 COMMISSION A REPORT DESCRIBING HOW THE UTILITY MET ITS ENERGY
27 EFFICIENCY PERFORMANCE STANDARD IN THE PREVIOUS YEAR. THE

1 REPORT SHALL INCLUDE, AS TO EACH PROGRAM OR POLICY UNDERTAKEN
2 BY THE UTILITY, THE ENERGY SAVINGS ACHIEVED, THE TECHNIQUES USED
3 TO EVALUATE SUCH SAVINGS, THE COST-EFFECTIVENESS OF THE PROGRAM
4 OR POLICY, AND AN EXPLANATION AND VERIFICATION OF ANY ENERGY
5 SAVINGS CREDITS THAT WERE PURCHASED.

6 (b) THE COMMISSION SHALL AUDIT THE ANNUAL REPORTS FILED BY
7 QUALIFYING UTILITIES, VERIFY THAT THE INFORMATION IN SUCH REPORTS
8 IS ACCURATE, AND MAKE ANY ADJUSTMENTS TO THE REPORTS THAT THE
9 COMMISSION DEEMS ARE WARRANTED.

10 (c) THE COMMISSION MAY RECOVER ITS COSTS FOR AUDIT AND
11 VERIFICATION FUNCTIONS FROM QUALIFYING UTILITIES. IF SUCH COST
12 RECOVERY IS IMPLEMENTED, EACH QUALIFYING UTILITY SHALL BE
13 PERMITTED TO ADD THE COSTS TO ITS DEMAND-SIDE MANAGEMENT
14 PROGRAM COSTS IN THE FOLLOWING YEAR.

15 (2) THE PROCEDURES IN THE NORTH AMERICAN ENERGY
16 MEASUREMENT AND VERIFICATION PROTOCOL, AS PUBLISHED BY THE
17 UNITED STATES DEPARTMENT OF ENERGY, SHALL BE USED BY QUALIFYING
18 UTILITIES IN EVALUATING ENERGY SAVINGS FROM DEMAND-SIDE
19 MANAGEMENT PROGRAMS AND BY BUSINESSES AND ENERGY SERVICE
20 COMPANIES IN DETERMINING ENERGY SAVINGS FROM PROJECTS PROVIDING
21 ENERGY SAVINGS CREDITS.

22 **40-4-206. Commission - rule-making authority.** (1) THE
23 COMMISSION SHALL BY MARCH 31, 2004, PROMULGATE, AND THEREAFTER
24 PERIODICALLY AMEND, ANY RULES NECESSARY TO IMPLEMENT THIS PART
25 2.

26 (2) IN PROMULGATING A TOTAL RESOURCE COST TEST, THE
27 COMMISSION SHALL CONSIDER, AND MAY IN ITS DISCRETION ADOPT

1 WITHOUT SUBSTANTIAL CHANGE, THE TOTAL RESOURCE COST TEST SET
2 FORTH IN THE CALIFORNIA STANDARD PRACTICE MANUAL.

3 **40-4-207. Costs of implementation - recovery by utilities.**

4 (1) A QUALIFYING UTILITY THAT IS INVESTOR-OWNED SHALL BE ALLOWED
5 TO RECOVER THE COST OF ITS DEMAND-SIDE MANAGEMENT PROGRAMS AND
6 ITS PURCHASES OF ENERGY SAVINGS CREDITS THROUGH THE DEMAND-SIDE
7 MANAGEMENT COST ADJUSTMENT MECHANISM.

8 (2) A QUALIFYING UTILITY THAT IS OWNED BY A MUNICIPALITY OR
9 COOPERATIVE SHALL BE ALLOWED TO RECOVER THE COST OF ITS
10 DEMAND-SIDE MANAGEMENT PROGRAMS BASED ON PROCEDURES
11 DETERMINED BY ITS BOARD OF DIRECTORS OR OTHER GOVERNING BODY.

12 **SECTION 2. Effective date.** This act shall take effect at 12:01
13 a.m. on the day following the expiration of the ninety-day period after
14 final adjournment of the general assembly that is allowed for submitting
15 a referendum petition pursuant to article V, section 1 (3) of the state
16 constitution; except that, if a referendum petition is filed against this act
17 or an item, section, or part of this act within such period, then the act,
18 item, section, or part, if approved by the people, shall take effect on the
19 date of the official declaration of the vote thereon by proclamation of the
20 governor.