A BILL FOR AN ACT

CONCERNING MEASURES TO REDUCE ENERGY BILLS THROUGH UTILITY ENERGY CONSERVATION PROGRAMS.

Bill Summary

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

Requires investor-owned electric and gas utilities to initiate and expand their energy conservation programs starting in 2005. Directs utilities to reduce overall energy use by their customers by a total of at least 0.5% each year from 2005 through 2020, to offer energy conservation programs to all of their customers, and to offer a free energy conservation action kit to every residential customer. Directs the public utilities commission to review conservation programs on an annual basis and authorize program cost recovery and a profit margin if a utility meets...
its savings goals and provides net economic benefits for its customers as a whole. Directs the commission to hold an annual public meeting to get input about the conservation program.

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

SECTION 1. Article 4 of title 40, Colorado Revised Statutes, is amended by the addition of a new part to read:

PART 2

ENERGY EFFICIENCY

PERFORMANCE STANDARDS

40-4-201. Purpose and scope. This part 2 is intended to reduce energy bills paid by consumers and businesses in the state, conserve the state’s natural resources, reduce pollution and water consumption, and enhance the reliability of the energy supply by actively promoting the use of energy conservation measures by investor-owned electric and gas utilities in Colorado. Utilities operating in Colorado that are not qualifying utilities covered by this part 2 are nevertheless encouraged, though not required, to implement energy conservation programs and to meet the energy savings targets set forth in this part 2.

40-4-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Cost-effective" means that the economic value of all benefits exceeds the economic value of all costs, on a net present value basis.

(2) "Electric utility" means a corporation, company, association, partnership, cooperative, municipality or
MUNICIPALLY-OWNED ENTITY, OR OTHER PERSON THAT PROVIDES RETAIL E
LECTRIC OR NATURAL GAS SERVICE TO CONSUMERS AND BUSINESSES IN C
OLORADO AND SERVES TEN THOUSAND OR MORE CUSTOMERS.

   (3) "ENERGY CONSERVATION" MEANS THE USE OF TECHNOLOGIES,
   MANAGEMENT PRACTICES, OR OTHER STRATEGIES THAT REDUCE E
LECTRICITY OR NATURAL GAS CONSUMPTION BY CONSUMERS OR B
USINESSES.

   (4) "ENERGY EFFICIENCY PERFORMANCE STANDARD" MEANS AN E
NERGY SAVINGS REQUIREMENT THAT MUST BE MET BY A QUALIFYING U
LITY THROUGH ITS ENERGY CONSERVATION PROGRAM.

   (5) "QUALIFYING UTILITY" MEANS AN ELECTRIC OR NATURAL GAS U
LITY THAT IS AN INVESTOR-OWNED CORPORATION.

   (6) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF C
ST-EFFECTIVENESS, AS DEFINED IN RULES ADOPTED BY THE PUBLIC U
ILITIES COMMISSION.

40-4-203. Energy efficiency performance standards. (1) The C
OMMISSION SHALL ESTABLISH ENERGY EFFICIENCY PERFORMANCE S
ARDS FOR EACH QUALIFYING UTILITY THAT WAS OPERATING IN C
OLORADO ON JANUARY 1, 2004. THE PERFORMANCE STANDARDS SHALL T
KE EFFECT ON AND AFTER JANUARY 1, 2005, AND SHALL REPRESENT A R
DUCTION IN OVERALL ANNUAL RETAIL SALES OF ELECTRICITY OR N
URAL GAS THAT IS AS CLOSE AS IS PRACTICABLE TO A TOTAL OF F
VE-TENTHS OF ONE PERCENT STARTING IN 2005 AND CONTINUING T
ROUGH 2020.

   (2) (a) ON OR BEFORE DECEMBER 31, 2004, THE COMMISSION S
HALL SET THE PERFORMANCE STANDARDS FOR 2005 THROUGH 2010 B
ASED ON PROJECTED FUTURE ELECTRICITY OR NATURAL GAS SALES OF
EACH QUALIFYING UTILITY AT THAT TIME.

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

c) ON OR BEFORE DECEMBER 31, 2015, THE COMMISSION SHALL SET THE PERFORMANCE STANDARDS FOR 2016 THROUGH 2020 BASED ON PROJECTED FUTURE ELECTRICITY OR NATURAL GAS SALES OF EACH QUALIFYING UTILITY AT THAT TIME.

IN PROJECTING FUTURE ELECTRICITY OR NATURAL GAS SALES, THE COMMISSION SHALL CONSIDER PAST TRENDS IN ELECTRICITY OR NATURAL GAS SALES AND ANY FORECASTS OF FUTURE SALES.

(4) THE COMMISSION SHALL ADJUST THE PERFORMANCE STANDARDS IF A QUALIFYING UTILITY MERGES, ACQUIRES OTHER UTILITIES, OR BREAKS UP INTO MULTIPLE UTILITIES. IN ESTABLISHING STANDARDS FOR NATURAL GAS UTILITIES, THE COMMISSION SHALL EXCLUDE GAS DELIVERED ON BEHALF OF OTHER NATURAL GAS UTILITIES.

40-4-204. Methods to meet standards - energy conservation programs. (1) A QUALIFYING UTILITY SHALL MEET ITS ENERGY EFFICIENCY PERFORMANCE STANDARDS EACH YEAR IN ACCORDANCE WITH SUBSECTIONS (2) AND (3) OF THIS SECTION.

(2) (a) A QUALIFYING UTILITY SHALL MAKE ENERGY CONSERVATION PROGRAMS AVAILABLE TO ALL CLASSES OF ITS CUSTOMERS.

(b) ELIGIBLE ENERGY CONSERVATION PROGRAMS INCLUDE FINANCIAL INCENTIVES, EDUCATION AND TRAINING, TECHNICAL ASSISTANCE, DISTRIBUTION OF FREE CONSERVATION MEASURES, AND
OTHER TYPES OF PROGRAMS THAT ARE DESIGNED TO PROVIDE ELECTRICAL
KILOWATT-HOUR OR NATURAL GAS THERM SAVINGS BY CONSUMERS AND
BUSINESSES.

(c) WHEN IMPLEMENTING ENERGY CONSERVATION PROGRAMS, A
QUALIFYING UTILITY IS ENCOURAGED BUT NOT REQUIRED TO USE
COMPETITIVE PROCUREMENT PROCESSES.

(d) A QUALIFYING UTILITY SHALL OPERATE ENERGY
CONSERVATION PROGRAMS THAT, TAKEN IN COMBINATION, ARE
COST-EFFECTIVE BASED ON THE TOTAL RESOURCE COST TEST.

(3) (a) As part of its energy conservation programs, a
qualifying utility shall offer a free energy conservation action
kit to every residential customer in its service area. The free kit
shall include low-cost energy conservation measures such as
compact fluorescent lamps, low-flow showerheads, and faucet
aerators. The kit shall be widely promoted through bill inserts,
phone calls, and general advertising to encourage maximum
adoption of these low-cost measures by households.

(b) Electric and gas utilities may cooperate in offering a
single energy conservation action kit to households they
jointly serve.

(4) A qualifying utility that fails to meet its energy
efficiency performance standard in any particular year shall be
required to achieve additional energy savings, equal to the
shortfall, within the following two years. The additional
energy savings shall be added to the energy efficiency
performance standards that apply in those years.

(5) The commission may issue an order to a qualifying
UTILITY TO CARRY OUT SPECIFIED ENERGY CONSERVATION PROGRAMS IF
THE COMMISSION DETERMINES THAT THE UTILITY IS NOT ADEQUATELY
CARRYING OUT ITS RESPONSIBILITIES UNDER THIS PART 2.

(6) Electric and natural gas utilities operating in
Colorado that are not qualifying utilities are encouraged but
not required to implement energy conservation programs and
meet the energy efficiency standards under this Part 2.

40-4-205. Reports - oversight by commission. (1) (a) Each
qualifying utility shall annually prepare and file with the
commission a report describing how the utility met its energy
efficiency performance standard in the previous year. The
report shall include, as to each energy conservation program
undertaken by the utility, the energy savings achieved, the
techniques used to evaluate such savings, and the
cost-effectiveness of the program.

(b) The commission shall audit the annual reports filed by
qualifying utilities, verify that the information in such reports
is accurate, and make any adjustments to the reports that the
commission deems are warranted.

(c) The commission shall issue a final determination on the
level of energy savings achieved, whether the energy efficiency
performance standard was met, and the cost-effectiveness of
energy conservation programs as a whole for each qualifying
utility within six months after receiving a complete report from
the utility.

(d) The commission may recover its costs for audit and
verification functions from qualifying utilities. If such cost
RECOVERY IS IMPLEMENTED, EACH QUALIFYING UTILITY SHALL BE PERMITTED TO ADD THE COSTS TO ITS CONSERVATION PROGRAM COSTS IN THE FOLLOWING YEAR.

(2) THE COMMISSION SHALL CONVENE A MEETING OPEN TO THE PUBLIC AT LEAST ONCE PER YEAR TO REVIEW THE STATUS AND RESULTS OF UTILITY ENERGY CONSERVATION PROGRAMS, AND TO RECEIVE INPUT REGARDING WAYS TO IMPROVE SUCH PROGRAMS.


(2) IN PROMULGATING A TOTAL RESOURCE COST TEST, THE COMMISSION SHALL CONSIDER, AND MAY ADOPT WITHOUT SUBSTANTIAL CHANGE, THE TOTAL RESOURCE COST TEST SET FORTH IN THE CALIFORNIA STANDARD PRACTICE MANUAL.

(3) THE COMMISSION SHALL ESTABLISH AN ENERGY CONSERVATION PROGRAM COST RECOVERY MECHANISM FOR GAS UTILITIES AS PART OF THE RULES ADOPTED UNDER THIS SECTION.

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

(1) IF THE COMMISSION DETERMINES THAT A UTILITY HAS MET ITS ENERGY EFFICIENCY PERFORMANCE STANDARD AND ITS CONSERVATION PROGRAMS AS A WHOLE WERE COST-EFFECTIVE UNDER THE TOTAL RESOURCE COST TEST, THE UTILITY SHALL BE ALLOWED TO RECOVER THE COST OF ITS ENERGY CONSERVATION PROGRAMS AND EARN A REASONABLE PROFIT ON THESE PROGRAMS THROUGH THE DEMAND-SIDE MANAGEMENT COST ADJUSTMENT MECHANISM.

(2) THE ALLOWED PROFIT SHALL BE THE PREVAILING RATE OF RETURN ALLOWED FOR OTHER INVESTMENTS MADE BY THE UTILITY.
(3) If the Commission determines that a utility has not met its energy efficiency performance standard, but the conservation programs the utility offered were cost-effective under the total resource cost test, the utility shall be allowed to recover the cost of its energy conservation programs but shall not be eligible to earn a profit on those programs.

(4) If the Commission determines that a utility has not met its energy efficiency performance standards and that its energy conservation programs as a whole were not cost-effective under the total resource cost test, the Commission may penalize the utility by not allowing recovery of the full cost of the energy conservation programs for the year or years in which the programs were not cost-effective.

(5) If the Commission determines that a utility has met its energy efficiency standard but that its conservation programs as a whole were not cost-effective under the total resource cost test, the utility shall be allowed to recover the cost of its programs but shall not be eligible to earn a profit on these programs. The Commission shall direct the utility to improve overall program cost-effectiveness in the future.

(6) Cost recovery shall occur in the twelve months after the Commission issues a determination for a particular utility and program year. Cost recovery shall occur through the existing demand-side management cost adjustment mechanism for electric utilities and through a new cost recovery mechanism for gas utilities established by the Commission.

(7) Cost recovery shall include a carrying cost for the
TIME PERIOD BETWEEN PROGRAM EXPENDITURES AND PROGRAM COST RECOVERY. THE CARRYING COST SHALL BE THE COMMISSION-AUTHORIZED, WEIGHTED-AVERAGE COST OF CAPITAL FOR EACH QUALIFYING UTILITY.

SECTION 2. 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 4, 2004, if adjournment sine die is on May 5, 2004); 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.