

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0742.01 Chuck Brackney x2295

HOUSE BILL 12-1258

HOUSE SPONSORSHIP

DelGrosso,

SENATE SPONSORSHIP

Jahn,

House Committees
Transportation

Senate Committees

A BILL FOR AN ACT

101 CONCERNING REGULATION OF PUBLIC UTILITIES IN TERMS OF
102 ALTERNATIVE FUEL VEHICLES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)

The bill specifies that sellers of electricity as fuel for alternative fuel vehicles are not regulated as public utilities. Generating electricity for sale as fuel for alternative fuel vehicles also does not make the seller subject to regulation as a public utility if the seller generates the electricity on the property where the fueling facilities are located and the

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.

electricity is generated from a renewable resource.

Public utilities must make commercially reasonable efforts to provide connection of electric and natural gas service to alternative fuel vehicle charging facilities. A public utility's right to make unregulated operating expenditures and investments via an unregulated subsidiary with regard to alternative fuel vehicle charging facilities is not limited.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-1-102, **amend** (1);
3 and **add** (1.5) as follows:

4 **40-1-102. Definitions.** As used in articles 1 to 7 of this title,
5 unless the context otherwise requires:

6 (1) ~~"Commission" means the public utilities commission of the~~
7 ~~state of Colorado~~ "ALTERNATIVE FUEL VEHICLE" MEANS ANY
8 AUTOMOBILE, TRUCK, MOTOR BUS, BOAT, AIRPLANE, TRAIN, TRACTOR, OR
9 OTHER TYPE OF MOTORIZED OFF-HIGHWAY EQUIPMENT OR OTHER
10 SELF-PROPELLED DEVICE OR VESSEL THAT IS CAPABLE OF MOVING ITSELF
11 OR BEING MOVED FROM PLACE TO PLACE UTILIZING NATURAL GAS,
12 ELECTRICITY, OR A COMBINATION OF NATURAL GAS AND ELECTRICITY AS
13 TRANSPORTATION FUEL, WHETHER OR NOT THE VEHICLE IS USED IN
14 AGRICULTURAL, COMMERCIAL, DOMESTIC, OR INDUSTRIAL OPERATIONS.

15 (1.5) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
16 THE STATE OF COLORADO.

17 **SECTION 2.** In Colorado Revised Statutes, 40-1-103, **repeal** (4)
18 as follows:

19 **40-1-103. Public utility defined.** (4) ~~For the purposes of articles~~
20 ~~1 to 7 of this title, persons selling compressed natural gas or its~~
21 ~~component parts or by-products to governmental entities or to the public~~
22 ~~for use as fuel in alternative fuel vehicles shall not be considered to be~~

1 ~~public utilities. As used in this subsection (4), "alternative fuel vehicle"~~
2 ~~means any automobile, truck, motor bus, or other self-propelled device or~~
3 ~~vessel which is capable of moving itself or being moved from place to~~
4 ~~place, whether or not it is used in agricultural, commercial, domestic, or~~
5 ~~industrial operations.~~

6 **SECTION 3.** In Colorado Revised Statutes, **add** 40-1-103.3 as
7 follows:

8 **40-1-103.3. Alternative fuel vehicles - definition.** (1) AS USED
9 IN THIS SECTION, "PROPERTY OR PREMISES", WITH RESPECT TO AN
10 ELECTRIC OR NATURAL GAS EXTENSION OR CONNECTION OF SERVICE,
11 INCLUDES ALTERNATIVE FUEL VEHICLE CHARGING AND FUELING FACILITIES
12 IN ADDITION TO BUILDINGS AND OTHER IMPROVEMENTS.

13 (2) FOR THE PURPOSES OF ARTICLES 1 TO 7 OF THIS TITLE, PERSONS
14 SELLING ELECTRICITY OR COMPRESSED OR LIQUEFIED NATURAL GAS OR ITS
15 COMPONENT PARTS OR BY-PRODUCTS TO GOVERNMENTAL ENTITIES OR TO
16 THE PUBLIC FOR USE AS FUEL IN ALTERNATIVE FUEL VEHICLES OR BUYING
17 ELECTRICITY STORED IN SUCH VEHICLES FOR RESALE ARE NOT SUBJECT TO
18 REGULATION AS A PUBLIC UTILITY AND ARE NOT SUBJECT TO THE
19 JURISDICTION, CONTROL, AND REGULATION OF THE COMMISSION OR ANY
20 OTHER PUBLIC REGULATORY BODY. AS USED IN THIS SUBSECTION (2),
21 "PERSONS" DOES NOT INCLUDE ENTITIES REGULATED AS ELECTRIC OR
22 NATURAL GAS PUBLIC UTILITIES FOR ACTIVITIES OTHER THAN AS
23 DESCRIBED IN THIS SECTION.

24 (3) OWNERS OR OPERATORS OF PROPERTY OR PREMISES
25 CONTAINING AN ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING
26 FACILITY, OR THE OWNERS OR OPERATORS OF THE FACILITY, SHALL
27 PURCHASE THE ELECTRICITY REQUIRED FOR THE FACILITY FROM A PUBLIC

1 UTILITY OR OTHER ENTITY WITH THE RIGHT TO SELL ELECTRICITY TO THE
2 PROPERTY, PREMISES, OR FACILITY EXCEPT WHEN THE OWNERS OR
3 OPERATORS OF THE PROPERTY, PREMISES, OR FACILITY GENERATE
4 ELECTRICITY ON THE PROPERTY OR PREMISES FOR USE IN ALTERNATIVE
5 FUEL VEHICLES AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION.

6 (4) THE OWNER OR OPERATOR OF A FACILITY THAT GENERATES
7 ELECTRICITY FOR USE IN ALTERNATIVE FUEL VEHICLE CHARGING OR
8 FUELING FACILITIES IS NOT SUBJECT TO REGULATION AS A PUBLIC UTILITY,
9 IF:

10 (a) THE ELECTRICITY IS GENERATED ON THE PROPERTY OR
11 PREMISES WHERE THE CHARGING OR FUELING FACILITIES ARE LOCATED;
12 AND

13 (b) THE ELECTRICITY IS GENERATED FROM A RENEWABLE
14 RESOURCE IN ACCORDANCE WITH THE ONE-HUNDRED-TWENTY PERCENT
15 DISTRIBUTED POWER GENERATION LIMITATION PURSUANT TO SECTION
16 40-2-124(1) OR IS GENERATED ON-SITE FROM NATURAL GAS IF THE PUBLIC
17 UTILITY WITH THE RIGHT TO SELL ELECTRICITY TO THE PROPERTY OR
18 PREMISES IS ALSO THE NATURAL GAS UTILITY FOR THE PROPERTY OR
19 PREMISES. THE ELECTRIC POWER REQUIREMENTS FOR THE PROPERTY OR
20 PREMISES PURSUANT TO SECTION 40-2-124 (1) INCLUDES THE PROJECTED
21 DEMAND FOR THE EXISTING OR PROPOSED ALTERNATIVE FUEL VEHICLE
22 CHARGING OR FUELING FACILITY IN ADDITION TO BUILDINGS AND OTHER
23 IMPROVEMENTS.

24 (5) SALE OF ELECTRICITY OR NATURAL GAS BY A PUBLIC UTILITY
25 TO THE OWNER OR OPERATOR OF AN ALTERNATIVE FUEL VEHICLE
26 CHARGING OR FUELING FACILITY IS NOT A WHOLESALE TRANSACTION.

27 (6) PUBLIC UTILITIES SHALL MAKE COMMERCIALY REASONABLE

1 EFFORTS TO PROVIDE EXTENSION AND CONNECTION OF ELECTRIC AND
2 NATURAL GAS SERVICE FROM EXISTING UTILITY SERVICES WHEN FEASIBLE
3 TO CUSTOMER PROPERTY AND PREMISES AT THE VOLTAGE AND AMPERAGE
4 OF ELECTRIC POWER AND PRESSURE OF NATURAL GAS SERVICE
5 REASONABLY REQUESTED BY THE CUSTOMER TO OPTIMIZE ENERGY
6 DELIVERY TO THE ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING
7 FACILITY AND MINIMIZE EQUIPMENT AND INSTALLATION COSTS FOR THE
8 FACILITY.

9 (7) (a) A PUBLIC UTILITY MAY MAKE REGULATED OPERATING
10 EXPENDITURES AND CAPITAL INVESTMENTS:

11 (I) ON THE UTILITY SIDE OF THE METER FOR EXTENSION AND
12 CONNECTION, INCLUDING BUT NOT LIMITED TO WHAT IS KNOWN AS
13 CONSTRUCTION ALLOWANCE, OF ELECTRIC AND NATURAL GAS SERVICE TO
14 CUSTOMER PROPERTY AND PREMISES;

15 (II) ON THE CUSTOMER SIDE OF THE METER, FOR ALTERNATIVE
16 FUEL VEHICLE CHARGING AND FUELING FACILITIES LOCATED AT A SINGLE-
17 OR MULTI-FAMILY RESIDENCE FOR THE PRIMARY USE OF THE RESIDENT OR
18 RESIDENTS;

19 (III) FOR ALTERNATIVE CHARGING OR FUELING FACILITIES FOR THE
20 PRIMARY USE OF ALTERNATIVE FUEL VEHICLES OWNED OR OPERATED BY
21 THE PUBLIC UTILITY, BUT NOT FOR FACILITIES INTENDED FOR COMMERCIAL
22 OR OTHER USES EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF
23 PARAGRAPH (a) OF THIS SUBSECTION (7); AND

24 (IV) ON THE UTILITY SIDE OF THE METER TO ENABLE ITS ELECTRIC
25 OR NATURAL GAS DISTRIBUTION SYSTEM TO MEET THE ENERGY DEMAND
26 FOR ALTERNATIVE FUEL VEHICLES.

27 (b) FOR THE ACTIVITIES DESCRIBED IN PARAGRAPH (a) OF THIS

1 SUBSECTION (7), PUBLIC UTILITIES MAY RECEIVE FULL RECOVERY OF
2 OPERATING EXPENDITURES AND CAPITAL INVESTMENTS, INCLUDING
3 APPROPRIATE RATE OF RETURN ON CAPITAL INVESTMENTS, AS
4 DETERMINED BY THE COMMISSION.

5 (c) FOR PURPOSES OF DETERMINING ALLOWED OPERATING
6 EXPENSES AND INVESTMENTS, A PUBLIC UTILITY'S "ELECTRIC OR NATURAL
7 GAS METER" MEANS ITS TRADITIONAL POINT OF ENERGY DELIVERY AND
8 NOT THE ENERGY MEASUREMENT DEVICE LOCATED IN ELECTRIC CHARGING
9 EQUIPMENT OR A NATURAL GAS FUELING DISPENSER.

10 (8) NOTHING IN THIS SECTION LIMITS THE RIGHT OF A PUBLIC
11 UTILITY TO MAKE UNREGULATED OPERATING EXPENDITURES AND CAPITAL
12 INVESTMENTS VIA AN UNREGULATED SUBSIDIARY WITH RESPECT TO
13 ALTERNATIVE FUEL VEHICLE CHARGING AND FUELING FACILITIES.

14 (9) THE EXPENDITURES AND INVESTMENTS DESCRIBED IN
15 SUBSECTION (7) OF THIS SECTION ARE EQUAL IN PRIORITY TO ALL OTHER
16 INFRASTRUCTURE NECESSARY TO SERVE ANY CUSTOMER OF THE PUBLIC
17 UTILITY IN ITS SERVICE TERRITORY, BUT ARE SUBORDINATE TO THE SAFETY
18 AND RELIABILITY OBLIGATIONS OF THE UTILITY.

19 (10) ALL WORK REQUIRED TO MEET THE REQUIREMENTS OF THIS
20 SECTION SHALL BE WITHIN THE CURRENT FUNDING AND CAPABILITIES OF
21 THE STATE AGENCIES INVOLVED.

22 **SECTION 4. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2012 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.