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HOUSE BILL 02-1415

BY REPRESENTATIVE(S) Hoppe, Swenson, Cloer, Garcia, Harvey, Johnson, Kester, Miller, Smith, Snook, Spradley, Alexander, Crane, Dean, Mace, Paschall, Plant, Romanoff, Sanchez, Stafford, Weddig, and Williams S.;

also SENATOR(S) Isgar, Chlouber, Entz, Owen, Phillips, Taylor, Hanna, Pascoe, Perlmutter, and Teck.

CONCERNING NET METERING BY ELECTRIC UTILITIES.

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

SECTION 1. Legislative declaration. The general assembly hereby finds, determines, and declares that a net metering program will encourage investment in renewable energy resources and enhance the diversification of energy resources in Colorado. The general assembly further finds that implementation of a net metering program should not result in cost shifting from customer-generators to other electric utility customers.

SECTION 2. Article 9.5 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 3

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

NET METERING FOR CUSTOMER-GENERATORS OF
COOPERATIVE ELECTRIC ASSOCIATIONS

40-9.5-301. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CUSTOMER-GENERATOR" MEANS A CUSTOMER OF AN ELECTRIC UTILITY WHO IS ALSO THE OWNER OR OPERATOR OF A NET METERING SYSTEM.

(2) "ELECTRIC UTILITY" MEANS EVERY COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION 40-9.5-102, THAT SELLS ELECTRICITY TO RETAIL CUSTOMERS. THE TERM "ELECTRIC UTILITY" SHALL NOT INCLUDE A MUNICIPAL UTILITY AS DEFINED IN SECTION 40-3.5-101 (4).

(3) "NET METERING" MEANS MEASURING THE DIFFERENCE BETWEEN THE ELECTRICITY SUPPLIED TO A CUSTOMER-GENERATOR BY OR THROUGH AN ELECTRIC UTILITY AND THE ELECTRICITY THAT IS GENERATED BY THE CUSTOMER-GENERATOR AND DELIVERED TO AN ELECTRIC UTILITY AT THE SAME POINT OF INTERCONNECTION.

(4) "NET METERING SYSTEM" MEANS A SYSTEM FOR THE GENERATION AND NET METERING OF ELECTRICITY THAT MEETS EACH OF THE FOLLOWING REQUIREMENTS:

(a) THE SYSTEM USES AS ITS ENERGY SOURCE SOLAR, WIND, BIOMASS, OR HYDROPOWER RESOURCES;

(b) THE SYSTEM HAS A GENERATING CAPACITY OF NOT MORE THAN TWENTY-FIVE KILOWATTS, UNLESS THE ELECTRIC UTILITY AGREES TO A GREATER CAPACITY OR UNLESS OTHERWISE LIMITED BY AN EXISTING CONTRACT FOR WHOLESALE POWER PURCHASED BY THE ELECTRIC UTILITY;

(c) THE SYSTEM IS LOCATED ON PREMISES THAT ARE OWNED, OPERATED, LEASED, OR OTHERWISE CONTROLLED BY THE CUSTOMER-GENERATOR;

(d) THE SYSTEM OPERATES IN PARALLEL WITH THE LOCAL DISTRIBUTION SYSTEM OF THE ELECTRIC UTILITY;

(e) THE SYSTEM IS INTENDED PRIMARILY TO OFFSET PART OR ALL OF THE CUSTOMER-GENERATOR'S REQUIREMENTS FOR ELECTRIC ENERGY AT THE

SAME LOCATION; AND

(f) THE SYSTEM SHALL NOT BE USED TO OFFSET OR PROVIDE CREDITS FOR ELECTRIC CONSUMPTION AT ANOTHER LOCATION OF THE CUSTOMER OR FOR ANY OTHER CUSTOMER.

40-9.5-302. Net metering service. (1) EVERY ELECTRIC UTILITY SHALL ESTABLISH RULES AND MAKE NET METERING SERVICES AVAILABLE TO ANY CUSTOMER-GENERATOR WITH A NET METERING SYSTEM THAT THE ELECTRIC UTILITY SERVES IF THE CUSTOMER-GENERATOR PAYS ANY ADDITIONAL COSTS FOR THE ACQUISITION AND INSTALLATION OF THE NECESSARY METERING EQUIPMENT. THE CUSTOMER-GENERATOR ALSO SHALL PAY ALL OTHER COSTS INCURRED BY A ELECTRIC UTILITY FOR EQUIPMENT OR SERVICES THAT ARE NECESSARY TO MEET THE SAFETY OR PERFORMANCE STANDARDS REQUIRED BY SECTION 40-9.5-304.

(2) AN ELECTRIC UTILITY MAY INSTALL SUCH ADDITIONAL METERING EQUIPMENT AS IT DEEMS NECESSARY TO METER ELECTRICITY FLOW IN EACH DIRECTION.

(3) IF THE TOTAL GENERATING CAPACITY OF ALL CUSTOMER-GENERATORS USING NET METERING SYSTEMS SERVED BY AN ELECTRIC UTILITY EXCEEDS ONE PERCENT OF THE CAPACITY NECESSARY TO MEET THE ELECTRIC UTILITY'S AGGREGATED CUSTOMER MONTHLY PEAK DEMAND FOR A PARTICULAR CALENDAR YEAR, THE ELECTRIC UTILITY MAY ELECT NOT TO PROVIDE NET METERING SERVICE TO ANY ADDITIONAL CUSTOMER-GENERATORS.

(4) THE CUSTOMER-GENERATOR IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH ITS NET METERING SYSTEM AND IS ALSO RESPONSIBLE FOR ALL COSTS RELATED TO ANY MODIFICATIONS TO THE NET METERING SYSTEM THAT MAY BE REQUIRED BY THE ELECTRIC UTILITY FOR PURPOSES OF INTERCONNECTIVITY, SAFETY, AND RELIABILITY.

40-9.5-303. Rates and charges. (1) THE RATES AND CHARGES FOR RETAIL ELECTRIC SERVICE TO CUSTOMER-GENERATORS SHALL BE BASED ON THE ELECTRIC UTILITY'S RATES AND CHARGES APPLICABLE TO EACH CUSTOMER CLASS. A JUST AND REASONABLE BACKUP OR STANDBY FEE OR CUSTOMER CHARGE MAY BE ASSESSED TO AVOID ANY COST SHIFTING FROM CUSTOMER-GENERATORS TO OTHER ELECTRIC UTILITY CUSTOMERS THAT MIGHT RESULT FROM IMPLEMENTATION OF THIS ARTICLE.

(2) UNLESS THE ELECTRIC UTILITY CHOOSES TO PAY MORE TO THE CUSTOMER-GENERATOR, THE ELECTRIC UTILITY SHALL PROVIDE A CREDIT TO THE CUSTOMER-GENERATOR FOR ITS GENERATION EQUAL TO THE ELECTRIC UTILITY'S AVOIDED COST. THE AVOIDED COST SHALL BE THE AVERAGE COST OF POWER TO THE ELECTRIC UTILITY FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR AS PUBLISHED IN THE UTILITY'S ANNUAL REPORT. THE AVERAGE COST OF POWER SHALL NOT INCLUDE THE UTILITY'S OWN TRANSMISSION, METERING, AND DISTRIBUTION COSTS. THE AVERAGE COST OF POWER SHALL INCLUDE THE CAPITAL AND EXPENSE COSTS ASSOCIATED WITH GENERATION FACILITIES FOR THOSE UTILITIES THAT GENERATE SOME OR ALL OF THEIR OWN POWER NEEDS AS WELL AS PURCHASED CAPACITY AND ENERGY COSTS. IF THE CUSTOMER-GENERATOR'S NET AGGREGATE BILL IS LESS THAN ZERO, CREDITS SHALL BE CARRIED OVER TO FUTURE BILLS OF THE CUSTOMER-GENERATOR UNTIL THE CREDIT BALANCE IS ZERO.

(3) AT THE BEGINNING OF EACH CALENDAR YEAR, ANY REMAINING UNUSED CREDIT BALANCE ACCUMULATED DURING THE PREVIOUS YEAR SHALL BE PAID TO THE CUSTOMER-GENERATOR.

(4) AN ELECTRIC UTILITY MAY INCLUDE IN ITS CALCULATION OF AVOIDED COST ANY FEES OR SURCHARGES IMPOSED BY A TAXING JURISDICTION TO RECOVER REVENUE LOSSES RESULTING FROM NET METERING.

40-9.5-304. Safety and performance requirements. (1) A NET METERING SYSTEM USED BY A CUSTOMER-GENERATOR SHALL MEET ALL APPLICABLE SAFETY AND PERFORMANCE STANDARDS ESTABLISHED BY THE NATIONAL ELECTRIC CODE, THE INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS, UNDERWRITERS LABORATORIES, INCORPORATED, THE NATIONAL ELECTRIC SAFETY CODE, AND ANY OTHER APPLICABLE REGULATIONS OR STANDARDS.

(2) THE CUSTOMER-GENERATOR SHALL, AT ITS EXPENSE, PROVIDE LOCKABLE SWITCHING EQUIPMENT CAPABLE OF ISOLATING THE NET METERING SYSTEM FROM THE ELECTRIC UTILITY'S SYSTEM. ALL NET METERING EQUIPMENT SHALL BE APPROVED BY THE ELECTRIC UTILITY AND SHALL BE ACCESSIBLE BY THE ELECTRIC UTILITY AT ALL TIMES.

(3) THE ELECTRIC UTILITY SHALL NOT BE LIABLE DIRECTLY OR INDIRECTLY FOR PERMITTING OR CONTINUING TO ALLOW AN ATTACHMENT OF A NET METERING SYSTEM, OR FOR ACTS OR OMISSIONS OF THE

CUSTOMER-GENERATOR THAT CAUSE LOSS OR INJURY, INCLUDING DEATH, TO THE CUSTOMER-GENERATOR OR ANY THIRD PARTY. THE CUSTOMER-GENERATOR SHALL INDEMNIFY THE ELECTRIC UTILITY FOR ANY AND ALL DAMAGE TO PERSONS OR PROPERTY AND ANY AND ALL DAMAGES OR LOSSES INCURRED BY THIRD PARTIES OR THE HEIRS, SUCCESSORS, OR ASSIGNS OF SUCH THIRD PARTIES, AS THE RESULT OF THE INSTALLATION OR OPERATION OF THE NET METERING SYSTEM.

40-9.5-305. No effect on existing net metering programs. THE PROVISIONS OF THIS PART 3 SHALL NOT APPLY TO THE NET METERING PROGRAM OF ANY ELECTRIC UTILITY THAT WAS IN OPERATION BEFORE THE EFFECTIVE DATE OF THIS PART 3, UNLESS THE ELECTRIC UTILITY CHOOSES TO AMEND ITS PRE-EXISTING PROGRAMS TO MEET THE REQUIREMENTS OF THIS PART 3.

40-9.5-306. Jurisdiction of public utilities commission. NOTHING IN THIS PART 3 SHALL EXTEND OR ENHANCE THE JURISDICTION OF THE PUBLIC UTILITIES COMMISSION OVER COOPERATIVE ELECTRIC ASSOCIATIONS.

SECTION 3. Effective date. This act shall take effect July 1, 2002.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Stan Matsunaka
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO