

Bill Summary

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

Requires the public utilities commission (commission) to establish an electric resource standard (standard) for renewable energy. Specifies that the standard shall require electric service providers to generate or acquire a specified amount of renewable energy each year. Increases the amount of renewable energy to be generated or acquired over a specified number of years.

Encourages electric service providers to use a competitive acquisition process to obtain the renewable resources necessary to fulfill its obligations. Counts renewable energy generated in an enterprise zone, by small biomass, or by solar electric resources as additional kilowatts toward complying with the standard. Specifies that a provider shall be credited for a specified amount of renewable energy that is produced or acquired even if the cost is recovered through an optional pricing program. Allows electricity produced by wind or solar energy systems subsidized by a provider to be deemed to be from a renewable energy system for purposes of complying with the standard. Allows the commission to adopt rules establishing a system of renewable energy credits that may be used to comply with the standard.

Requires a provider to notify the commission if the provider will be unable to comply with the standard for a particular calendar year. Authorizes the commission to exempt the provider from all or a portion of the standard if there is an insufficient supply of renewable energy, or allow a deferral if new capacity is not needed.

Specifies that approved renewable energy contracts are deemed a prudent investment and the costs associated with the contract may be recovered. Requires providers to create a plan for acquiring the renewable resources necessary to meet the standard and to submit an annual report to the commission concerning the provider's compliance with the

standard. Requires the commission to promulgate rules necessary for the administration and enforcement of the act, including through the imposition of fines. Requires revenues from such fines to be used to encourage the development of additional renewable energy facilities.

Defines terms.

Be it enacted by the People of the State of Colorado:

SECTION 1. Legislative declaration. (1) Energy is critically important to the overall welfare and development of our society, and its use has a profound impact on the society, economy, and environment of the state. Growth of the state's population and economic base will continue to create a need for new energy resources. Colorado has potential renewable energy resources that are currently underutilized.

(2) Therefore, in order to continue to be successful in attracting new businesses and jobs, in promoting development of rural economies, in minimizing water use for electricity generation, in diversifying Colorado's energy resources to reduce the impact of volatile fuel prices, and in improving the natural environment of the state, it is in the best interests of the citizens of Colorado to develop and utilize renewable energy resources to the maximum practicable extent.

SECTION 2. Title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 3.3

Electric Resource Standard for Renewable Energy

40-3.3-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "BIOMASS" MEANS:

(I) ORGANIC MATTER FROM A PLANT OR TREE THAT IS PLANTED FOR THE PURPOSE OF BEING USED TO PRODUCE ENERGY;

(II) NONTOXIC, LIGNOCELLULOSIC OR HEMICELLULOSIC MATTER THAT REGENERATES, OR THE USE OF WHICH WILL NOT RESULT IN A DEPLETION OF RESOURCES, AND THAT IS THE BYPRODUCT OF:

(A) FOREST RESTORATION OR FIRE MITIGATION TRIMMINGS;

(B) MILL RESIDUE;

(C) SLASH; OR

(D) BRUSH;

(III) BIOSOURCE FUELS;

(IV) ANIMAL WASTES AND PRODUCTS OF ANIMAL WASTES;

(V) URBAN WOOD WASTE;

(VI) INVASIVE SPECIES;

(VII) METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF THE TREATMENT OF WASTEWATER RESIDUALS; AND

(VIII) AQUATIC PLANTS.

(b) "BIOMASS" DOES NOT INCLUDE BLACK LIQUOR, TREATED WOODS, OR BIOMASS FROM MUNICIPAL SOLID WASTE OTHER THAN METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF THE TREATMENT OF WASTEWATER RESIDUALS.

(2) "ELECTRIC RESOURCE STANDARD" OR "STANDARD" MEANS A STANDARD FOR RENEWABLE ENERGY CONTENT ESTABLISHED BY THE COMMISSION PURSUANT TO SECTION 40-3.3-102.

(3) "PEAKING POWER RENEWABLE ENERGY SYSTEM" MEANS A RENEWABLE ENERGY SYSTEM THAT DELIVERS ENERGY DURING TIME PERIODS THAT GENERALLY COINCIDE WITH PEAK ELECTRIC UTILITY LOADS.

(4) "PROVIDER OF ELECTRIC SERVICE" OR "PROVIDER" MEANS ANY PERSON OR ENTITY THAT IS IN THE BUSINESS OF SELLING ELECTRICITY TO MORE THAN XX,XXX RETAIL CUSTOMERS IN THE STATE. THE TERM DOES NOT INCLUDE A LANDLORD OF A MOBILE HOME PARK, OR AN OWNER OF A COMPANY TOWN OR SIMILAR FACILITY THAT IS CENTRALLY METERED.

(5) "QUALIFIED ENERGY RECOVERY SYSTEM" MEANS A SYSTEM WITH A NAMEPLATE CAPACITY OF NOT MORE THAN FIFTEEN MEGAWATTS THAT CONVERTS THE OTHERWISE LOST ENERGY FROM THE HEAT FROM EXHAUST STACKS OR PIPES USED FOR ENGINES, MANUFACTURING, OR INDUSTRIAL PROCESSES TO GENERATE ELECTRICITY AND THAT DOES NOT USE ADDITIONAL FOSSIL FUEL OR REQUIRE A COMBUSTION PROCESS TO GENERATE THE ELECTRICITY. 'QUALIFIED ENERGY RECOVERY SYSTEM' DOES NOT INCLUDE ANY SYSTEM THAT USES ENERGY, LOST OR OTHERWISE, FROM A PROCESS WHOSE PRIMARY PURPOSE IS THE GENERATION OF ELECTRICITY, INCLUDING, WITHOUT LIMITATION, ANY PROCESS INVOLVING ENGINE-DRIVEN GENERATION OR PUMPED HYDROGENERATION.

(6) (a) "RENEWABLE ENERGY" MEANS, NOTWITHSTANDING SECTION 40-1-102 (6):

(I) BIOMASS, GEOTHERMAL ENERGY, SOLAR ENERGY, SMALL HYDROELECTRICITY, AND WIND ENERGY; AND

(II) HYDROGEN DERIVED FROM A SOURCE LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(b) "RENEWABLE ENERGY" DOES NOT INCLUDE:

(I) PUMPED STORAGE FACILITIES; HYDROELECTRICITY OTHER THAN SMALL HYDROELECTRICITY; COAL, NATURAL GAS, OIL, PROPANE, OR ANY OTHER FOSSIL FUEL; OR NUCLEAR ENERGY; OR

(II) HYDROGEN DERIVED FROM A SOURCE LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).

(7) "RENEWABLE ENERGY CONTRACT" MEANS A CONTRACT TO ACQUIRE ELECTRICITY, TOGETHER WITH ANY ASSOCIATED RENEWABLE ENERGY CREDITS, FROM ONE OR MORE RENEWABLE ENERGY SYSTEMS OWNED, OPERATED, OR CONTROLLED BY OTHER PARTIES.

(8) "RENEWABLE ENERGY SYSTEM" MEANS A FACILITY OR ENERGY SYSTEM, INCLUDING FUEL CELLS, THAT:

(a) USES RENEWABLE ENERGY TO GENERATE ELECTRICITY AND TRANSMITS OR DISTRIBUTES THE ELECTRICITY THAT IT GENERATES TO A PROVIDER OF ELECTRIC SERVICE;

(b) GENERATES AND TRANSMITS ELECTRICITY TO A PROVIDER OF ELECTRIC SERVICE USING RENEWABLE ENERGY AND FOSSIL FUELS IN HYBRID COMBINATION TO BALANCE INTERMITTENT AVAILABILITY, OR TO ENHANCE DISPATCHABILITY, IF, ON AN ANNUAL BASIS, THE AMOUNT OF THERMAL ENERGY TRANSMITTED TO THE SYSTEM DERIVED FROM FOSSIL FUELS DOES NOT EXCEED THE AMOUNT OF THERMAL ENERGY TRANSMITTED TO THE SYSTEM DERIVED FROM RENEWABLE ENERGY. FOR THE PURPOSES OF THIS ARTICLE, THE NAMEPLATE RATING OF A FACILITY AS DESCRIBED IN THIS PARAGRAPH (b) SHALL NOT EXCEED THAT OF THE RENEWABLE ENERGY CAPABILITY ALONE.

(c) ACTIVELY REDUCES THE CONSUMPTION OF GRID-SUPPLIED ELECTRICITY BY USING RENEWABLE ENERGY AS A RESOURCE.

(9) "RETAIL CUSTOMER" MEANS A CUSTOMER LOCATED IN THE STATE OF COLORADO WHO PURCHASES ELECTRICITY FOR THE CUSTOMER'S OWN USE AND NOT FOR RESALE, INCLUDING, WITHOUT LIMITATION:

(a) THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN AGENCY OR INSTRUMENTALITY OF THE STATE OR POLITICAL SUBDIVISION OF THE STATE WHEN IT PURCHASES ELECTRICITY AT RETAIL; AND

(b) A LANDLORD OF A MOBILE HOME PARK OR OWNER OF A COMPANY TOWN OR SIMILAR FACILITY THAT IS CENTRALLY METERED.

(10) "SMALL HYDROELECTRICITY" MEANS:

(a) A HYDROELECTRIC PROJECT WITH A NAMEPLATE RATING OF TWENTY MEGAWATTS OR LESS IN EXISTENCE ON OR BEFORE THE EFFECTIVE DATE OF THIS ARTICLE;

(b) TECHNOLOGIES THAT HARNESS THE INCREMENTAL HYDROELECTRIC POTENTIAL OF WATER IMPOUNDMENTS OR CONVEYANCE STRUCTURES IN EXISTENCE ON OR BEFORE THE EFFECTIVE DATE OF THIS ARTICLE, IF SUCH INCREMENTAL HYDROELECTRIC DEVELOPMENT DOES NOT ADVERSELY CHANGE EXISTING IMPACTS TO THE AQUATIC ECOSYSTEM OR RESULT IN INCREASED DIVERSION OR CONSUMPTIVE USE OF WATER FROM ANY RIVER, STREAM, OR OTHER WATERWAY; OR

(c) A PROJECT THAT HARNESSES THE HYDROELECTRIC POTENTIAL OF WATER IMPOUNDMENTS OR CONVEYANCE STRUCTURES NOT IN EXISTENCE ON OR BEFORE THE EFFECTIVE DATE OF THIS ARTICLE, WITH A NAMEPLATE RATING OF TEN MEGAWATTS OR LESS.

40-3.3-102. Electric resource standard - rules. (1) FOR EACH PROVIDER OF ELECTRIC SERVICE, THE COMMISSION SHALL ESTABLISH AN ELECTRIC RESOURCE STANDARD FOR RENEWABLE ENERGY. THE ELECTRIC RESOURCE STANDARD SHALL REQUIRE EACH PROVIDER TO GENERATE, DISPLACE, OR ACQUIRE ELECTRICITY FROM RENEWABLE ENERGY SYSTEMS OR QUALIFIED ENERGY RECOVERY SYSTEMS IN AMOUNTS PRORATED UPON RETAIL ENERGY SALES WITHIN COLORADO AS REPORTED IN EACH PROVIDER'S FORM 1 SUBMITTED ANNUALLY TO THE

FEDERAL ENERGY REGULATORY COMMISSION, THAT TOTAL FOR THE STATE:

(a) THREE PERCENT OF ITS RETAIL ELECTRICITY SALES IN COLORADO FOR THE YEARS XXXX THROUGH XXXX;

(b) SIX PERCENT OF ITS RETAIL ELECTRICITY SALES IN COLORADO FOR THE YEARS XXXX THROUGH XXXX;

(c) TEN PERCENT OF ITS RETAIL ELECTRICITY SALES IN COLORADO FOR THE YEARS XXXX THROUGH XXXX;

(2) (a) A COMPETITIVE ACQUISITION PROCESS SHALL GENERALLY BE USED TO ACQUIRE RENEWABLE RESOURCES REQUIRED BY THIS ARTICLE. THIS PROCESS IS INTENDED TO RESULT IN A RENEWABLE RESOURCE PORTFOLIO THAT BALANCES COST, BENEFIT, AND RISK FACTORS.

(b) IN A RESOURCE PLANNING PROCESS PRIOR TO THE YEAR 2010, THE COMMISSION SHALL REVIEW THE UTILIZATION OF PEAKING POWER RENEWABLE ENERGY SYSTEMS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) FOR EACH PROVIDER, IF ANY SUCH PEAKING POWER RENEWABLE ENERGY SYSTEM IS PROPOSED BY A PARTY TO BE INCLUDED IN THE ENERGY PROVIDER'S RESOURCE PORTFOLIO. IF THE COMMISSION FINDS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) THAT SUCH SYSTEMS ARE ADVANTAGEOUS, CONSIDERING COSTS, BENEFITS, AND RISKS, IT MAY ORDER THE PROVIDER TO ACQUIRE PEAKING POWER RENEWABLE ENERGY SYSTEMS TOTALING UP TO TEN PERCENT OF ITS 2010 OBLIGATION UNDER THIS ARTICLE.

(3) EACH KILOWATT OF RENEWABLE ELECTRIC RESOURCES INSTALLED IN AN AREA OF COLORADO DESIGNATED AS AN ENTERPRISE ZONE PURSUANT TO SECTION 39-30-103, C.R.S., SHALL COUNT AS ONE AND ONE-HALF KILOWATTS TOWARDS COMPLIANCE WITH THIS STANDARD.

(4) EACH KILOWATT OF RENEWABLE ELECTRIC GENERATING RESOURCES IN COLORADO GENERATED BY A FACILITY, THE NAMEPLATE RATING OF WHICH IS FIVE MEGAWATTS OR SMALLER, THAT UTILIZES NONTOXIC PLANT MATTER THAT IS THE BYPRODUCT OF FIRE MITIGATION TRIMMINGS ON PRIVATE LANDS SHALL COUNT AS TWO KILOWATTS TOWARD COMPLIANCE WITH THIS STANDARD.

(5) EACH KILOWATT OF CUSTOMER-SITED SOLAR ELECTRIC RENEWABLE RESOURCES SHALL COUNT AS XX KILOWATTS TOWARD COMPLIANCE WITH THIS STANDARD.

(6) IN APPLYING THE ELECTRIC RESOURCE STANDARD, THE COMMISSION SHALL FULLY CREDIT THE PROVIDER OF ELECTRIC SERVICE WITH THE RENEWABLE ENERGY KILOWATTS THAT THE PROVIDER OF ELECTRIC SERVICE HAS INSTALLED OR PURCHASED NOTWITHSTANDING WHETHER THE COST OF THE RENEWABLE ENERGY HAS BEEN OR WILL BE RECOVERED THROUGH AN OPTIONAL RENEWABLE ENERGY PRICING PROGRAM OR THROUGH STANDARD UTILITY RATES. PROVIDERS ARE AUTHORIZED AND ENCOURAGED TO DEVELOP AND EXPAND OPTIONAL RENEWABLE ENERGY PRICING PROGRAMS OR GREEN TAG PROGRAMS THAT PROMOTE RENEWABLE ENERGY.

(7) IF, FOR THE BENEFIT OF ONE OR MORE OF ITS RETAIL CUSTOMERS IN THIS STATE, THE PROVIDER HAS SUBSIDIZED MORE THAN FIFTY PERCENT OF THE COST OF A CUSTOMER-SITED WIND OR SOLAR ENERGY SYSTEM WITH A NAMEPLATE RATING OF TEN KILOWATTS OR LESS THAT REDUCES THE CONSUMPTION OF GRID-SUPPLIED ELECTRICITY, THE TOTAL INSTALLED NAMEPLATE CAPACITY OF THE WIND OR SOLAR ENERGY SYSTEM SHALL BE DEEMED TO PRODUCE ENERGY THAT THE PROVIDER GENERATED OR ACQUIRED FROM A RENEWABLE ENERGY SYSTEM.

(8) FOR THE PURPOSES OF COMPLYING WITH ITS ELECTRIC RESOURCE STANDARD, PROVIDERS OF ELECTRIC SERVICE MAY FILE WITH THE COMMISSION FOR ITS APPROVAL A STANDARD FORM OF CONTRACT FOR CUSTOMER-SITED RENEWABLE ENERGY SYSTEMS WITH NAMEPLATE RATINGS GREATER THAN TEN KILOWATTS AND NOT GREATER THAN FIVE MEGAWATTS.

(9) ELECTRIC ENERGY PRODUCED BY A PROVIDER OF ELECTRIC SERVICE THROUGH CO-FIRING RENEWABLE FUELS DESCRIBED IN SECTION 40-3.3-101 (1) AND (6) (a) (II) SHALL COUNT TOWARD COMPLIANCE WITH THIS STANDARD PRORATED ON THE HEAT CONTENT OF THE RENEWABLE FUELS AS A PERCENTAGE OF ALL FUELS USED TO PRODUCE SUCH ENERGY. ANY FACILITY UTILIZED FOR CO-FIRING RENEWABLE FUELS SHALL MEET CURRENT EMISSION REQUIREMENTS.

(10) THE COMMISSION MAY PROMULGATE RULES TO ESTABLISH A SYSTEM OF RENEWABLE ENERGY CREDITS THAT MAY BE USED BY A PROVIDER TO COMPLY WITH ITS ELECTRIC RESOURCE STANDARD. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(11) IF A PROVIDER BELIEVES IT WILL BE UNABLE TO COMPLY WITH ITS ELECTRIC RESOURCE STANDARD REQUIREMENTS THROUGH THE GENERATION OF ELECTRICITY FROM ITS OWN RENEWABLE ENERGY SYSTEMS, THROUGH RENEWABLE ENERGY SUPPLY CONTRACTS, THROUGH QUALIFIED ENERGY RECOVERY SYSTEMS, OR, IF APPLICABLE, THROUGH THE SALE AND PURCHASE OF RENEWABLE ENERGY CREDITS, THE PROVIDER SHALL SO NOTIFY THE COMMISSION. IF THE COMMISSION DETERMINES THERE IS NOT OR WILL NOT BE A SUFFICIENT SUPPLY OF ELIGIBLE ELECTRICITY AVAILABLE TO THE PROVIDER, OR THAT THE PROVIDER WILL NOT BE ABLE TO OBTAIN OR BUILD, AT REASONABLE COST, THE TRANSMISSION NEEDED TO DELIVER THE ELIGIBLE ENERGY TO

THE PROVIDER'S SYSTEM, THE COMMISSION MAY EXEMPT THE PROVIDER FROM THE REMAINING REQUIREMENTS OF ITS ELECTRIC RESOURCE STANDARD OR FROM ANY APPROPRIATE PORTION THEREOF, AS DETERMINED BY THE COMMISSION.

(12) A PROVIDER SHALL NOT HAVE THE AUTHORITY TO CONDEMN OR EXERCISE THE POWER OF EMINENT DOMAIN OVER ANY REAL ESTATE, RIGHT-OF-WAY, EASEMENT, OR OTHER RIGHT PURSUANT TO SECTION 38-2-101, C.R.S., TO SITE THE GENERATION FACILITIES OF A RENEWABLE ENERGY SYSTEM USED IN WHOLE OR IN PART TO MEET AN ELECTRIC RESOURCE STANDARD ESTABLISHED PURSUANT TO THIS ARTICLE. A PROVIDER SHALL CONTINUE TO HAVE THE AUTHORITY TO CONDEMN OR EXERCISE THE POWER OF EMINENT DOMAIN OVER ANY REAL ESTATE, RIGHT-OF-WAY, EASEMENT, OR OTHER RIGHT PURSUANT TO SECTION 38-2-101, C.R.S., TO TRANSMIT ENERGY USED IN WHOLE OR IN PART TO MEET AN ELECTRIC RESOURCE STANDARD ESTABLISHED PURSUANT TO THIS ARTICLE.

(13) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE THE ELIGIBLE CAPACITY USED TO MEET THE STANDARD TO BE PRODUCED ONLY IN THE STATE OF COLORADO, IF THE PROVIDER GIVES PREFERENCE TO RENEWABLE ENERGY FACILITIES IN COLORADO WHEN OTHER FACTORS ARE DEEMED EQUAL.

(14) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT A PROVIDER OF ELECTRIC SERVICE FROM USING THE SAME RENEWABLE ENERGY RESOURCES TO MEET THE REQUIREMENTS OF THIS ARTICLE AND ANY EXISTING OR FUTURE FEDERAL ELECTRIC RESOURCE STANDARD FOR RENEWABLE ENERGY.

(15) (a) A PROVIDER OF ELECTRIC SERVICE SHALL PLAN FOR THE ACQUISITION OF RENEWABLE RESOURCES SUFFICIENT TO MEET THE REQUIREMENTS OF THIS ARTICLE OVER THE PLANNING PERIOD OF ITS LEAST-COST RESOURCE PLAN OR ANY SUCCESSOR PLAN. IN CONSIDERING SUCH PLAN, THE COMMISSION SHALL CONSIDER THE STATUS OF FEDERAL SUBSIDIES FOR RENEWABLE ENERGY. HOWEVER, IF THE LEAST COST PLAN APPROVED BY THE COMMISSION OR ANY SUCCESSOR PLAN INDICATES THAT ADDITIONAL CAPACITY, REGARDLESS OF SOURCE, IS NOT NEEDED FOR CERTAIN YEARS DURING THE PLANNING PERIOD, THE COMMISSION MAY AUTHORIZE THE PROVIDER OF ELECTRIC SERVICE TO DEFER THE ACQUISITION OF RENEWABLE RESOURCES REQUIRED UNDER THIS ARTICLE FOR THOSE YEARS UNTIL SUCH TIME AS ADDITIONAL CAPACITY IS NEEDED.

(b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (15), IF THE COMMISSION DETERMINES THAT THE COST OF ELECTRICITY, INCLUDING ANCILLARY COSTS, FROM PROPOSED OR EXISTING RENEWABLE RESOURCE FACILITIES IS COST EFFECTIVE COMPARED TO THE COST OF OPERATING EXISTING GENERATION RESOURCES OR PURCHASING ENERGY UNDER EXISTING POWER SUPPLY CONTRACTS, THE COMMISSION MAY ORDER THE ACQUISITION OF SUCH RESOURCES.

(16) ANY PROVIDER OF ELECTRIC SERVICE THAT HAS ESTABLISHED A RENEWABLE ENERGY STANDARD EQUAL TO OR HIGHER THAN THE AMOUNTS SPECIFIED IN SECTION 40-3.3-102 BY [date] SHALL BE EXEMPTED FROM COMPLIANCE REQUIREMENTS.

40-3.3-103. Renewable energy cost recovery - acquisition plan.

(1) IF THE COMMISSION APPROVES THE TERMS AND CONDITIONS OF A RENEWABLE ENERGY CONTRACT OR QUALIFIED ENERGY RECOVERY SYSTEM CONTRACT BETWEEN THE PROVIDER OF ELECTRIC SERVICE AND ANOTHER PARTY, THE RENEWABLE ENERGY CONTRACT OR QUALIFIED

ENERGY RECOVERY SYSTEM CONTRACT AND ITS TERMS AND CONDITIONS SHALL BE DEEMED TO BE A PRUDENT INVESTMENT, AND THE COMMISSION SHALL APPROVE RETAIL RATES SUFFICIENT TO RECOVER ALL JUST AND REASONABLE COSTS ASSOCIATED WITH THE CONTRACT. IF A PROVIDER OF ELECTRIC SERVICE SUBMITS A FORM OF CONTRACT TO THE COMMISSION FOR ITS APPROVAL, AND THE COMMISSION APPROVES THE TERMS AND CONDITIONS OF THE FORM OF CONTRACT, ANY CONTRACT ENTERED INTO BETWEEN THE PROVIDER OF ELECTRIC SERVICE AND ANOTHER PARTY THAT IS MATERIALLY CONSISTENT WITH THE TERMS AND CONDITIONS OF THE APPROVED FORM OF CONTRACT SHALL BE DEEMED TO BE A PRUDENT INVESTMENT, AND THE COMMISSION SHALL APPROVE RETAIL RATES SUFFICIENT TO RECOVER ALL JUST AND REASONABLE COSTS ASSOCIATED WITH THE CONTRACT. THE PROVIDER OF ELECTRIC SERVICE SHALL BE ENTITLED TO FULL RECOVERY OF ITS PRUDENTLY INCURRED COSTS OF CONSTRUCTING AND OPERATING ITS OWN RENEWABLE ENERGY SYSTEMS OR QUALIFIED ENERGY RECOVERY SYSTEMS AS DETERMINED BY THE COMMISSION.

(2) EACH PROVIDER SHALL FILE WITH THE COMMISSION FOR ITS APPROVAL THE PROVIDER'S PLAN FOR ACQUIRING THE RESOURCES NECESSARY TO MEET THE REQUIREMENTS OF THIS ARTICLE. THE PROVIDER SHALL UPDATE ITS PLAN AS NECESSARY. THE PLAN SHALL SPECIFY THE PORTION OF THE RENEWABLE RESOURCE OBLIGATION UNDER THIS ARTICLE THAT THE PROVIDER INTENDS TO ACQUIRE THROUGH:

- (a) A STAND-ALONE RENEWABLE ENERGY TARIFF;
- (b) A COMPETITIVE ACQUISITION PROCESS; AND
- (c) AN ALTERNATIVE METHOD OF ACQUISITION, SUCH AS BY SELF-BUILDING OR THE USE OF RENEWABLE ENERGY CREDITS.

40-3.3-104. Annual report. (1) EACH PROVIDER OF ELECTRIC SERVICE SHALL SUBMIT TO THE COMMISSION AN ANNUAL REPORT THAT PROVIDES INFORMATION RELATING TO THE ACTIONS TAKEN BY THE PROVIDER TO COMPLY WITH ITS ELECTRIC RESOURCE STANDARD.

(2) EACH PROVIDER SHALL SUBMIT THE ANNUAL REPORT TO THE COMMISSION AFTER THE END OF EACH CALENDAR YEAR AND WITHIN THE TIME PRESCRIBED BY THE COMMISSION. THE REPORT SHALL BE SUBMITTED IN A FORMAT APPROVED BY THE COMMISSION.

(3) EACH ANNUAL REPORT SHALL INCLUDE CLEAR AND CONCISE INFORMATION THAT SETS FORTH:

(a) THE AMOUNT OF ELECTRICITY THAT THE PROVIDER GENERATED OR ACQUIRED FROM RENEWABLE ENERGY SYSTEMS OR QUALIFIED ENERGY RECOVERY SYSTEMS DURING THE REPORTING PERIOD AND, IF APPLICABLE, THE AMOUNT OF RENEWABLE ENERGY CREDITS THAT THE PROVIDER ACQUIRED, SOLD, OR TRADED DURING THE REPORTING PERIOD TO COMPLY WITH ITS ELECTRIC RESOURCE STANDARD;

(b) THE CAPACITY OF EACH RENEWABLE ENERGY SYSTEM OR QUALIFIED ENERGY RECOVERY SYSTEM OWNED, OPERATED, OR CONTROLLED BY THE PROVIDER, THE TOTAL AMOUNT OF ELECTRICITY GENERATED BY EACH SUCH SYSTEM DURING THE REPORTING PERIOD, AND THE PERCENTAGE OF THAT TOTAL AMOUNT THAT WAS GENERATED DIRECTLY FROM RENEWABLE ENERGY;

(c) WHETHER, DURING THE REPORTING PERIOD, THE PROVIDER BEGAN CONSTRUCTION ON, ACQUIRED, OR PLACED INTO OPERATION ANY RENEWABLE ENERGY SYSTEM OR QUALIFIED ENERGY RECOVERY SYSTEM AND, IF SO, THE DATE OF ANY SUCH EVENT;

(d) INFORMATION ON THE COST AND TIMING OF TRANSMISSION FACILITIES AND SERVICES NECESSARY FOR THE UTILIZATION OF ENERGY

FROM RENEWABLE ENERGY FACILITIES THAT ARE UTILIZED TO COMPLY WITH THE STANDARD; AND

(e) ANY OTHER INFORMATION THAT THE COMMISSION BY RULE DEEMS RELEVANT.

40-3.3-105. Rules - fines - renewable energy account. (1) THE COMMISSION SHALL PROMULGATE RULES NECESSARY FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE. THE RULES PROMULGATED BY THE COMMISSION SHALL INCLUDE:

(a) ENFORCEMENT MECHANISMS THAT ARE NECESSARY AND REASONABLE TO ENSURE THAT EACH PROVIDER OF ELECTRIC SERVICE COMPLIES WITH ITS ELECTRIC RESOURCE STANDARD; AND

(b) PROVISIONS GOVERNING THE IMPOSITION OF ADMINISTRATIVE PENALTIES ASSESSED AFTER A HEARING HELD BY THE COMMISSION PURSUANT TO SECTION 40-6-109. THE PROVIDER SHALL NOT BE PENALIZED IF THE PROVIDER FAILS TO COMPLY WITH THE ELECTRIC RESOURCE STANDARD DUE TO THE NONPERFORMANCE OF A PARTY OTHER THAN THE PROVIDER UNDER A RENEWABLE ENERGY CONTRACT, AND THE PROVIDER EXERCISES REASONABLE DILIGENCE TO COME INTO COMPLIANCE WITH THE ELECTRIC RESOURCE STANDARD. UNDER NO CIRCUMSTANCES SHALL THE COSTS OF ADMINISTRATIVE PENALTIES BE RECOVERED FROM COLORADO RETAIL CUSTOMERS.

(c) MONEYS COLLECTED FOR PENALTIES THAT RESULT FROM NONCOMPLIANCE WITH THE STANDARD SHALL BE:

(I) TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT THEM IN A SPECIAL RENEWABLE ENERGY ACCOUNT IN THE PUBLIC UTILITIES COMMISSION FIXED UTILITY FUND CREATED IN SECTION 40-2-114, WHICH SPECIAL ACCOUNT IS HEREBY CREATED;

(II) USED TO THE FULLEST EXTENT PRACTICABLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL RENEWABLE ENERGY FACILITIES AS DETERMINED BY THE COMMISSION.

(2) ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(3) TECHNOLOGY REINVESTMENT PROGRAM: UTILITIES SUBJECT TO THE TERMS OF THIS INITIATIVE MAY CHOOSE TO REINVEST HALF OF THE MONEYS SAVED BY USE OF RENEWABLE ENERGY IN EMERGING NEW PRE-COMMERCIAL TECHNOLOGIES.

SECTION 3. Effective date. This act shall take effect on December 1, 2004.