

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 07-0353.01 Thomas Morris

HOUSE BILL 07-1169

HOUSE SPONSORSHIP

Solano, Benefield, Borodkin, Casso, Green, Kefalas, Levy, McFadyen, McKinley, Merrifield, Peniston, Primavera, and Todd

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING NET METERING FOR CUSTOMER-GENERATORS OF**
102 **COOPERATIVE ELECTRIC ASSOCIATIONS.**

Bill Summary

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

Repeals and reenacts the statutes that govern net metering for customer-generators of cooperative electric associations.

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

2 **SECTION 1.** Part 3 of article 9.5 of title 40, Colorado Revised

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.

1 Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS,
2 to read:

3 PART 3
4 NET METERING

5 **40-9.5-301. Legislative declaration.** (1) (a) THE GENERAL
6 ASSEMBLY FINDS THAT IT IS IN THE BEST INTERESTS OF THE STATE TO
7 EFFECTIVELY UTILIZE OUR DISTRIBUTED RENEWABLE ENERGY RESOURCES.
8 ENERGY IS CRITICALLY IMPORTANT TO COLORADO'S WELFARE AND
9 DEVELOPMENT, AND ITS USE HAS A PROFOUND IMPACT ON THE ECONOMY
10 AND ENVIRONMENT. GROWTH OF THE STATE'S POPULATION AND
11 ECONOMIC BASE WILL CONTINUE TO CREATE A NEED FOR NEW ENERGY
12 RESOURCES, AND COLORADO'S RENEWABLE ENERGY RESOURCES ARE
13 CURRENTLY UNDERUTILIZED.

14 (b) THEREFORE, IN ORDER TO SAVE CONSUMERS AND BUSINESSES
15 MONEY, ATTRACT NEW BUSINESSES AND JOBS, PROMOTE THE
16 DEVELOPMENT OF RURAL ECONOMIES, MINIMIZE WATER USE FOR
17 ELECTRICITY GENERATION, DIVERSIFY COLORADO'S ENERGY RESOURCES,
18 REDUCE THE IMPACT OF VOLATILE FUEL PRICES, AND IMPROVE THE
19 NATURAL ENVIRONMENT OF THE STATE, IT IS IN THE BEST INTERESTS OF
20 THE CITIZENS OF COLORADO TO DEVELOP AND UTILIZE DISTRIBUTED
21 RENEWABLE ENERGY RESOURCES TO THE MAXIMUM PRACTICABLE EXTENT.

22 (2) SPECIFICALLY, THE STATE WILL:

23 (a) SIMPLIFY AND STANDARDIZE METERING, BILLING, AND
24 INTERCONNECTION PROCEDURES FOR GRID-TIED RENEWABLE ELECTRICITY
25 GENERATION THAT IS ON THE PREMISES OF AN END-USE ELECTRICITY
26 CONSUMER IN COLORADO;

27 (b) ENCOURAGE CUSTOMER-SITED ELECTRICITY GENERATION FROM

1 RENEWABLE RESOURCES TO CAPTURE THE ASSOCIATED ENVIRONMENTAL,
2 ECONOMIC, AND ENERGY SECURITY BENEFITS;

3 (c) ENCOURAGE DISTRIBUTED RENEWABLE GENERATION SYSTEMS
4 SIZED TO GENERATE AN AMOUNT OF ELECTRICITY APPROXIMATELY EQUAL
5 TO THE AMOUNT CONSUMED EACH YEAR BY THE HOST END-USE
6 ELECTRICITY CUSTOMER;

7 (d) RECOGNIZE THAT NET METERING STRIKES A REASONABLE
8 BALANCE BETWEEN THE ECONOMIC INTERESTS OF ELECTRICITY
9 CONSUMERS AND ELECTRICITY PROVIDERS WITHIN THE STATE; AND

10 (e) STRIVE TO ELIMINATE ALL EXISTING BARRIERS TO THE RAPID
11 ADOPTION OF DISTRIBUTED RENEWABLE ENERGY GENERATION.

12 **40-9.5-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "BIOMASS" MEANS:

15 (a) NONTOXIC PLANT MATTER CONSISTING OF AGRICULTURAL
16 CROPS OR THEIR BYPRODUCTS, URBAN WOOD WASTE, MILL RESIDUE,
17 SLASH, OR BRUSH;

18 (b) ANIMAL WASTES AND PRODUCTS OF ANIMAL WASTES; AND

19 (c) METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF
20 THE TREATMENT OF WASTEWATER RESIDUALS.

21 (2) "COOPERATIVE ELECTRIC ASSOCIATION" MEANS A
22 COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION 40-9.5-102,
23 THAT SELLS ELECTRICITY TO RETAIL CUSTOMERS.

24 (3) "CUSTOMER" OR "CUSTOMER-GENERATOR" MEANS AN END-USE
25 ELECTRICITY CUSTOMER THAT GENERATES ELECTRICITY ON THE
26 CUSTOMER'S SIDE OF THE METER.

27 (4) (a) "ELIGIBLE RENEWABLE ENERGY RESOURCES" MEANS:

1 (I) FACILITIES THAT GENERATE ELECTRICITY BY MEANS OF SOLAR
2 RADIATION, WIND, GEOTHERMAL, BIOMASS, OR HYDROPOWER; AND

3 (II) FUEL CELLS USING HYDROGEN DERIVED FROM THE SOURCES
4 LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

5 (b) FOSSIL AND NUCLEAR FUELS AND THEIR DERIVATIVES ARE NOT
6 ELIGIBLE RENEWABLE ENERGY RESOURCES.

7 (5) "NET METERING" MEANS A SYSTEM OF METERING ELECTRICITY
8 IN WHICH A COOPERATIVE ELECTRIC ASSOCIATION:

9 (a) CREDITS A CUSTOMER-GENERATOR AT THE FULL RETAIL RATE
10 FOR EACH KILOWATT-HOUR OF ELECTRICITY GENERATED FROM ELIGIBLE
11 RENEWABLE ENERGY RESOURCES INSTALLED ON THE
12 CUSTOMER-GENERATOR'S SIDE OF THE ELECTRIC REVENUE METER, UP TO
13 THE TOTAL AMOUNT OF ELECTRICITY USED BY THAT CUSTOMER DURING AN
14 ANNUAL PERIOD; AND

15 (b) COMPENSATES THE CUSTOMER-GENERATOR AT THE END OF AN
16 ANNUAL PERIOD FOR ANY ADDITIONAL ELECTRICITY SO GENERATED, AT A
17 RATE EQUAL TO THE COOPERATIVE ELECTRIC ASSOCIATION'S AVERAGE
18 HOURLY INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE MOST
19 RECENT CALENDAR YEAR.

20 **40-9.5-303. Net metering.** (1) ALL COOPERATIVE ELECTRIC
21 ASSOCIATIONS SHALL ALLOW A CUSTOMER'S RETAIL ELECTRICITY
22 CONSUMPTION TO BE OFFSET BY THE ELECTRICITY GENERATED FROM
23 ELIGIBLE RENEWABLE ENERGY RESOURCES ON THE CUSTOMER'S SIDE OF
24 THE METER THAT ARE INTERCONNECTED WITH THE FACILITIES OF THE
25 COOPERATIVE ELECTRIC ASSOCIATION IF THE GENERATING CAPACITY OF
26 THE CUSTOMER'S FACILITY MEETS BOTH OF THE FOLLOWING CRITERIA:

27 (a) THE RATED CAPACITY OF THE GENERATOR DOES NOT EXCEED

1 FIVE HUNDRED KILOWATTS OF ALTERNATING CURRENT FOR COOPERATIVE
2 ELECTRIC ASSOCIATIONS THAT HAVE TEN THOUSAND RETAIL METERS OR
3 LESS; ONE MEGAWATT OF ALTERNATING CURRENT FOR COOPERATIVE
4 ELECTRIC ASSOCIATIONS THAT HAVE AT LEAST TEN THOUSAND ONE RETAIL
5 METERS AND NO MORE THAN FORTY THOUSAND RETAIL METERS; AND TWO
6 MEGAWATTS OF ALTERNATING CURRENT FOR COOPERATIVE ELECTRIC
7 ASSOCIATIONS WITH MORE THAN FORTY THOUSAND RETAIL METERS; AND

8 (b) THE RATED CAPACITY OF THE GENERATOR DOES NOT EXCEED
9 THE CUSTOMER'S SERVICE ENTRANCE CAPACITY.

10 (2) IF A CUSTOMER WITH AN ELIGIBLE RENEWABLE ENERGY
11 RESOURCE GENERATES RENEWABLE ENERGY PURSUANT TO SUBSECTION (1)
12 OF THIS SECTION IN EXCESS OF THE CUSTOMER'S CONSUMPTION, THE
13 EXCESS KILOWATT-HOURS SHALL BE CARRIED FORWARD FROM MONTH TO
14 MONTH AND CREDITED AT A RATIO OF ONE-TO-ONE AGAINST THE
15 CUSTOMER'S RETAIL KILOWATT-HOUR CONSUMPTION IN SUBSEQUENT
16 MONTHS. WITHIN SIXTY DAYS AFTER THE END OF EACH CALENDAR YEAR,
17 OR WITHIN SIXTY DAYS AFTER THE CUSTOMER TERMINATES ITS RETAIL
18 SERVICE, THE COOPERATIVE ELECTRIC ASSOCIATION SHALL COMPENSATE
19 THE CUSTOMER FOR ANY ACCRUED EXCESS KILOWATT-HOUR CREDITS, AT
20 THE COOPERATIVE ELECTRIC ASSOCIATION'S AVERAGE HOURLY
21 INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE MOST RECENT
22 CALENDAR YEAR.

23 (3) THE COOPERATIVE ELECTRIC ASSOCIATION SHALL ADOPT
24 PROCEDURES, TARIFFS, AND RATES THAT COMPLY WITH THIS PART 3 AND,
25 WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3),
26 SHALL ALLOW CUSTOMER-GENERATORS TO ENTER INTO NET METERING.

27 (4) A CUSTOMER'S FACILITY THAT GENERATES RENEWABLE

1 ENERGY FROM AN ELIGIBLE RENEWABLE ENERGY RESOURCE SHALL BE
2 EQUIPPED WITH METERING EQUIPMENT THAT CAN MEASURE THE FLOW OF
3 ELECTRIC ENERGY IN BOTH DIRECTIONS. THE COOPERATIVE ELECTRIC
4 ASSOCIATION SHALL USE A SINGLE, BI-DIRECTIONAL ELECTRIC REVENUE
5 METER WITH A SINGLE REGISTER THAT DISPLAYS THE NET READING FOR
6 BILLING PURPOSES. THE COOPERATIVE ELECTRIC ASSOCIATION MAY
7 CHOOSE TO METER ADDITIONAL INFORMATION WITHIN THIS METER IF THE
8 CUSTOMER CAN EASILY AND CLEARLY READ THE NET READING.

9 (5) IF THE CUSTOMER'S EXISTING ELECTRIC REVENUE METER DOES
10 NOT MEET THE REQUIREMENTS OF THIS PART 3, THE COOPERATIVE
11 ELECTRIC ASSOCIATION SHALL INSTALL AND MAINTAIN A NEW REVENUE
12 METER FOR THE CUSTOMER, AT THE COOPERATIVE ELECTRIC
13 ASSOCIATION'S EXPENSE. THE CUSTOMER SHALL PAY FOR ANY
14 SUBSEQUENT REVENUE METER CHANGE NECESSITATED BY THE CUSTOMER.

15 (6) THE COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT REQUIRE
16 MORE THAN ONE METER PER CUSTOMER TO COMPLY WITH THIS PART 3.
17 NOTHING IN THIS PART 3 SHALL PRECLUDE THE COOPERATIVE ELECTRIC
18 ASSOCIATION FROM PLACING A SECOND METER TO GATHER OTHER
19 INFORMATION AT ITS OWN EXPENSE AND IF THE CUSTOMER CONSENTS.

20 (7) A COOPERATIVE ELECTRIC ASSOCIATION SHALL PROVIDE NET
21 METERING SERVICE AT NONDISCRIMINATORY RATES TO CUSTOMERS WITH
22 ELIGIBLE RENEWABLE ENERGY RESOURCES. A CUSTOMER SHALL NOT BE
23 REQUIRED TO CHANGE THE RATE UNDER WHICH THE CUSTOMER RECEIVED
24 RETAIL SERVICE IN ORDER FOR THE CUSTOMER TO INSTALL AN ELIGIBLE
25 RENEWABLE ENERGY RESOURCE. MINIMUM MONTHLY BILLING AMOUNTS
26 MAY NOT BE APPLIED TO A NET METERED CUSTOMER IN EXCESS OF THE
27 MONTHLY SERVICE AND FACILITIES CHARGE EMBEDDED IN THE RATE

1 APPLICABLE TO THE CUSTOMER. NOTHING IN THIS PART 3 SHALL PROHIBIT
2 A COOPERATIVE ELECTRIC ASSOCIATION FROM MAKING CHANGES IN RATES
3 AT ANY TIME IF SUCH CHANGES DO NOT DISCRIMINATE AGAINST NET
4 METERED CUSTOMERS.

5 (8) A CUSTOMER-GENERATOR THAT IS ELIGIBLE FOR NET METERING
6 OWNS THE RENEWABLE AND ENVIRONMENTAL ATTRIBUTES OF THE
7 ELECTRICITY IT GENERATES, UNLESS THE CUSTOMER IS A PARTY TO A
8 CONTRACT CONTAINING AN EXPRESS PROVISION THAT ASSIGNS OWNERSHIP
9 OF THOSE RENEWABLE AND ENVIRONMENTAL ATTRIBUTES. A
10 CUSTOMER-GENERATOR MAY NOT BE REQUIRED TO ASSIGN RENEWABLE
11 AND ENVIRONMENTAL ATTRIBUTES OF THE ELECTRICITY IT GENERATES IN
12 ORDER TO RECEIVE NET METERING OR INTERCONNECTION.

13 (9) EACH COOPERATIVE ELECTRIC ASSOCIATION SHALL PROVIDE
14 THE FOLLOWING, WHICH SHALL BE PUBLISHED ON THE COOPERATIVE
15 ELECTRIC ASSOCIATION'S WEB SITE:

16 (a) AN ANNUAL NET METERING REPORT, WHICH SHALL INCLUDE
17 THE FOLLOWING INFORMATION, AT A MINIMUM:

18 (I) THE TOTAL NUMBER OF CUSTOMER-GENERATOR FACILITIES;

19 (II) THE TOTAL ESTIMATED RATED GENERATING CAPACITY OF ITS
20 NET METERING CUSTOMER-GENERATORS;

21 (III) THE TOTAL ESTIMATED NET KILOWATT-HOURS RECEIVED
22 FROM CUSTOMER-GENERATORS; AND

23 (IV) THE TOTAL ESTIMATED AMOUNT OF ENERGY PRODUCED BY
24 THE CUSTOMER-GENERATORS;

25 (b) THE COOPERATIVE ELECTRIC ASSOCIATION'S NET METERING
26 POLICY AS IT APPLIES TO MEMBERS; AND

27 (c) THE COOPERATIVE ELECTRIC ASSOCIATION'S INTERCONNECTION

1 STANDARDS AS THEY APPLY TO MEMBERS.

2 **40-9.5-304. Interconnection - insurance.** (1) A COOPERATIVE
3 ELECTRIC ASSOCIATION AND A CUSTOMER-GENERATOR SHALL COMPLY
4 WITH THE INTERCONNECTION STANDARDS ESTABLISHED IN THE RULES
5 PROMULGATED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO
6 SECTION 40-2-124; EXCEPT THAT SUBSECTION (2) OF THIS SECTION SHALL
7 APPLY WITH REGARD TO INSURANCE REQUIREMENTS, AND THE
8 COOPERATIVE ELECTRIC ASSOCIATION MAY ESTABLISH INTERCONNECTION
9 PROCEDURES AND FORMS THAT ARE LESS STRINGENT ON THE
10 CUSTOMER-GENERATOR THAN THE PUBLIC UTILITIES COMMISSION'S RULES.
11 INTERCONNECTION AGREEMENTS SHALL BE WRITTEN IN PLAIN ENGLISH
12 AND SHALL BE AS SIMPLE, CLEAR, AND SHORT AS POSSIBLE.

13 (2) (a) (I) A COOPERATIVE ELECTRIC ASSOCIATION MAY REQUIRE
14 NO MORE THAN THE FOLLOWING INSURANCE RATES:

15 (A) FOR SYSTEMS OF NO MORE THAN ONE HUNDRED KILOWATTS,
16 THE CUSTOMER-GENERATOR, AT ITS OWN EXPENSE, MAY BE REQUIRED TO
17 SECURE AND MAINTAIN IN EFFECT DURING THE TERM OF THE
18 INTERCONNECTION AGREEMENT LIABILITY INSURANCE WITH A COMBINED
19 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE OF NO MORE
20 THAN THREE HUNDRED THOUSAND DOLLARS FOR EACH OCCURRENCE.

21 (B) FOR SYSTEMS OF MORE THAN ONE HUNDRED KILOWATTS AND
22 NO MORE THAN ONE MEGAWATT, THE CUSTOMER-GENERATOR, AT ITS OWN
23 EXPENSE, MAY BE REQUIRED TO SECURE AND MAINTAIN IN EFFECT DURING
24 THE TERM OF THE AGREEMENT LIABILITY INSURANCE WITH A COMBINED
25 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE OF NO MORE
26 THAN ONE MILLION DOLLARS FOR EACH OCCURRENCE.

27 (C) FOR SYSTEMS OF MORE THAN ONE MEGAWATT AND NO MORE

1 THAN TWO MEGAWATTS, THE CUSTOMER-GENERATOR, AT ITS OWN
2 EXPENSE, MAY BE REQUIRED TO SECURE AND MAINTAIN IN EFFECT DURING
3 THE TERM OF THE AGREEMENT LIABILITY INSURANCE WITH A COMBINED
4 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE OF NO MORE
5 THAN TWO MILLION DOLLARS FOR EACH OCCURRENCE.

6 (D) INSURANCE COVERAGE FOR SYSTEMS GREATER THAN TWO
7 MEGAWATTS SHALL BE DETERMINED ON A CASE-BY-CASE BASIS BY THE
8 COOPERATIVE ELECTRIC ASSOCIATION AND SHALL REFLECT THE SIZE OF
9 THE INSTALLATION AND THE POTENTIAL FOR SYSTEM DAMAGE.

10 (II) THE COOPERATIVE ELECTRIC ASSOCIATION MAY REDUCE OR
11 WAIVE ANY OF THE INSURANCE REQUIREMENTS SPECIFIED IN THIS
12 PARAGRAPH (a).

13 (b) AT THE COOPERATIVE ELECTRIC ASSOCIATION'S OPTION, FOR
14 SYSTEMS LARGER THAN ONE HUNDRED KILOWATTS, THE COOPERATIVE
15 ELECTRIC ASSOCIATION MAY BE NAMED AS AN ADDITIONAL INSURED BY
16 ENDORSEMENT TO THE INSURANCE POLICY AND THE POLICY SHALL
17 PROVIDE THAT WRITTEN NOTICE BE GIVEN TO THE COOPERATIVE ELECTRIC
18 ASSOCIATION AT LEAST THIRTY DAYS PRIOR TO THE CANCELLATION OR
19 REDUCTION OF ANY COVERAGE. SUCH LIABILITY INSURANCE SHALL
20 PROVIDE, BY ENDORSEMENT TO THE POLICY, THAT THE COOPERATIVE
21 ELECTRIC ASSOCIATION SHALL NOT BY REASON OF ITS INCLUSION AS AN
22 ADDITIONAL INSURED INCUR LIABILITY TO THE INSURANCE CARRIER FOR
23 THE PAYMENT OF ANY PREMIUM FOR SUCH INSURANCE. FOR ALL SOLAR
24 SYSTEMS, THE LIABILITY INSURANCE SHALL NOT EXCLUDE COVERAGE FOR
25 ANY INCIDENT RELATED TO THE SUBJECT GENERATOR OR ITS OPERATION.

26 (c) CERTIFICATES OF INSURANCE EVIDENCING THE REQUISITE
27 COVERAGE AND PROVISIONS, IF ANY, SHALL BE FURNISHED TO THE

1 COOPERATIVE ELECTRIC ASSOCIATION PRIOR TO THE DATE OF
2 INTERCONNECTION OF THE GENERATION SYSTEM. A COOPERATIVE
3 ELECTRIC ASSOCIATION MAY PERIODICALLY OBTAIN PROOF OF CURRENT
4 INSURANCE COVERAGE FROM THE CUSTOMER-GENERATOR IN ORDER TO
5 VERIFY PROPER LIABILITY INSURANCE COVERAGE IF THE REQUESTS DO NOT
6 BECOME BURDENSOME ON THE CUSTOMER-GENERATOR. A
7 CUSTOMER-GENERATOR MAY NOT COMMENCE OR CONTINUE
8 INTERCONNECTED OPERATIONS UNLESS EVIDENCE IS PROVIDED THAT
9 SATISFACTORY INSURANCE COVERAGE IS IN EFFECT AT ALL TIMES.

10 **SECTION 2. Effective date.** This act shall take effect at 12:01
11 a.m. on the day following the expiration of the ninety-day period after
12 final adjournment of the general assembly that is allowed for submitting
13 a referendum petition pursuant to article V, section 1 (3) of the state
14 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);
15 except that, if a referendum petition is filed against this act or an item,
16 section, or part of this act within such period, then the act, item, section,
17 or part, if approved by the people, shall take effect on the date of the
18 official declaration of the vote thereon by proclamation of the governor.