

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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1 Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS,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.

15 (b) COMPENSATES THE CUSTOMER-GENERATOR AT THE END OF AN
16 ANNUAL PERIOD FOR NO MORE THAN TWENTY-FIVE PERCENT OF
17 ADDITIONAL ELECTRICITY SO GENERATED OF THE
18 CUSTOMER-GENERATOR'S GROSS ANNUAL CONSUMPTION FOR THE
19 PREVIOUS YEAR. SUCH COMPENSATION SHALL BE AT THE COOPERATIVE
20 ELECTRIC ASSOCIATION'S AVOIDED COST, WHICH SHALL BE THE AVERAGE
21 COST OF POWER TO THE COOPERATIVE ELECTRIC ASSOCIATION FOR THE
22 IMMEDIATELY PRECEDING CALENDAR YEAR.

23 (c) IF A CUSTOMER-GENERATOR TAKES SERVICE FROM A
24 COOPERATIVE ELECTRIC ASSOCIATION ON A TIME-OF-USE OR OTHER
25 TIME-BASED RATE, THE COOPERATIVE ELECTRIC ASSOCIATION MAY CREDIT
26 THE CUSTOMER-GENERATOR FOR THE KILOWATT-HOURS OF ENERGY
27 PRODUCED BY THE CUSTOMER-GENERATOR USING THE SAME TIME-BASED

1 RATE, USING APPROPRIATE TIME-DIFFERENTIATED METERING.

2 **40-9.5-303. Net metering.** (1) ALL COOPERATIVE ELECTRIC
3 ASSOCIATIONS SHALL ALLOW A CUSTOMER'S RETAIL ELECTRICITY
4 CONSUMPTION TO BE OFFSET BY THE ELECTRICITY GENERATED FROM
5 ELIGIBLE RENEWABLE ENERGY RESOURCES ON THE CUSTOMER'S SIDE OF
6 THE METER THAT ARE INTERCONNECTED WITH THE FACILITIES OF THE
7 COOPERATIVE ELECTRIC ASSOCIATION IF THE GENERATING CAPACITY OF
8 THE CUSTOMER'S FACILITY MEETS BOTH OF THE FOLLOWING CRITERIA:

9 (a) THE RATED CAPACITY OF THE GENERATOR DOES NOT EXCEED
10 FIVE HUNDRED KILOWATTS OF ALTERNATING CURRENT FOR COOPERATIVE
11 ELECTRIC ASSOCIATIONS THAT HAVE TEN THOUSAND RETAIL METERS OR
12 LESS; ONE MEGAWATT OF ALTERNATING CURRENT FOR COOPERATIVE
13 ELECTRIC ASSOCIATIONS THAT HAVE AT LEAST TEN THOUSAND ONE RETAIL
14 METERS AND NO MORE THAN FORTY THOUSAND RETAIL METERS; AND TWO
15 MEGAWATTS OF ALTERNATING CURRENT FOR COOPERATIVE ELECTRIC
16 ASSOCIATIONS WITH MORE THAN FORTY THOUSAND RETAIL METERS; AND

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

19 (2) IF A CUSTOMER WITH AN ELIGIBLE RENEWABLE ENERGY
20 RESOURCE GENERATES RENEWABLE ENERGY PURSUANT TO SUBSECTION (1)
21 OF THIS SECTION IN EXCESS OF THE CUSTOMER'S CONSUMPTION, THE
22 EXCESS KILOWATT-HOURS SHALL BE CARRIED FORWARD FROM MONTH TO
23 MONTH AND CREDITED AT A RATIO OF ONE-TO-ONE AGAINST THE
24 CUSTOMER'S RETAIL KILOWATT-HOUR CONSUMPTION IN SUBSEQUENT
25 MONTHS. WITHIN SIXTY DAYS AFTER THE END OF EACH CALENDAR YEAR,
26 OR WITHIN SIXTY DAYS AFTER THE CUSTOMER TERMINATES ITS RETAIL
27 SERVICE, THE COOPERATIVE ELECTRIC ASSOCIATION SHALL COMPENSATE

1 THE CUSTOMER FOR ANY ACCRUED EXCESS KILOWATT-HOUR CREDITS, AT
2 THE COOPERATIVE ELECTRIC ASSOCIATION'S AVERAGE HOURLY
3 INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE MOST RECENT
4 CALENDAR YEAR.

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

9 (4) A CUSTOMER'S FACILITY THAT GENERATES RENEWABLE
10 ENERGY FROM AN ELIGIBLE RENEWABLE ENERGY RESOURCE SHALL BE
11 EQUIPPED WITH METERING EQUIPMENT THAT CAN MEASURE THE FLOW OF
12 ELECTRIC ENERGY IN BOTH DIRECTIONS. THE COOPERATIVE ELECTRIC
13 ASSOCIATION SHALL USE A SINGLE, BI-DIRECTIONAL ELECTRIC REVENUE
14 METER WITH A SINGLE REGISTER THAT DISPLAYS THE NET READING FOR
15 BILLING PURPOSES. THE COOPERATIVE ELECTRIC ASSOCIATION MAY
16 CHOOSE TO METER ADDITIONAL INFORMATION WITHIN THIS METER IF THE
17 CUSTOMER CAN EASILY AND CLEARLY READ THE NET READING.

18 (5) IF THE CUSTOMER'S EXISTING ELECTRIC REVENUE METER DOES
19 NOT MEET THE REQUIREMENTS OF THIS PART 3, THE COOPERATIVE
20 ELECTRIC ASSOCIATION SHALL INSTALL AND MAINTAIN A LOWEST-COST
21 NEW REVENUE METER THAT MEETS THE MINIMUM REQUIREMENTS OF THIS
22 PART 3 FOR THE CUSTOMER, AT THE CUSTOMER'S EXPENSE. THE
23 CUSTOMER SHALL ALSO PAY FOR ANY SUBSEQUENT REVENUE METER
24 CHANGE NECESSITATED BY THE CUSTOMER. A METER FOR A WELL PUMP
25 SHALL BE CAPABLE OF SUPPLYING THE STATE ENGINEER WITH A RECORD
26 OF THE ENERGY USED TO PUMP GROUND WATER AS REQUIRED BY SECTION
27 37-92-502 (5) (b), C.R.S.

1 (6) THE COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT REQUIRE
2 MORE THAN ONE METER PER CUSTOMER TO COMPLY WITH THIS PART 3.
3 NOTHING IN THIS PART 3 SHALL PRECLUDE THE COOPERATIVE ELECTRIC
4 ASSOCIATION FROM PLACING A SECOND METER TO GATHER OTHER
5 INFORMATION AT ITS OWN EXPENSE UNLESS THE METER IS LOCATED ON
6 THE CUSTOMER'S PROPERTY, IN WHICH CASE THE ASSOCIATION MAY DO SO
7 ONLY IF THE CUSTOMER CONSENTS.

8 (7) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS
9 SUBSECTION (7), A COOPERATIVE ELECTRIC ASSOCIATION SHALL PROVIDE
10 NET METERING SERVICE AT NONDISCRIMINATORY RATES TO CUSTOMERS
11 WITH ELIGIBLE RENEWABLE ENERGY RESOURCES. A CUSTOMER SHALL NOT
12 BE REQUIRED TO CHANGE THE RATE UNDER WHICH THE CUSTOMER
13 RECEIVED RETAIL SERVICE IN ORDER FOR THE CUSTOMER TO INSTALL AN
14 ELIGIBLE RENEWABLE ENERGY RESOURCE. MINIMUM MONTHLY BILLING
15 AMOUNTS MAY NOT BE APPLIED TO A NET METERED CUSTOMER IN EXCESS
16 OF THE MONTHLY SERVICE AND FACILITIES CHARGE EMBEDDED IN THE
17 RATE APPLICABLE TO THE CUSTOMER. NOTHING IN THIS PART 3 SHALL
18 PROHIBIT A COOPERATIVE ELECTRIC ASSOCIATION FROM MAKING CHANGES
19 IN RATES AT ANY TIME IF SUCH CHANGES DO NOT DISCRIMINATE AGAINST
20 NET METERED CUSTOMERS.

21 (b) A COOPERATIVE ELECTRIC ASSOCIATION MAY REQUIRE THE USE
22 OF A DEMAND-BASED RATE FOR CUSTOMER-GENERATORS THAT TAKE
23 SERVICE ON A SEASONAL IRRIGATION RATE IF THE IRRIGATION PUMP
24 SERVED BY THE METER IS LARGER THAN TWENTY-FIVE HORSEPOWER.

25 (8) A CUSTOMER-GENERATOR THAT IS ELIGIBLE FOR NET METERING
26 OWNS THE RENEWABLE AND ENVIRONMENTAL ATTRIBUTES OF THE
27 ELECTRICITY IT GENERATES, UNLESS THE CUSTOMER IS A PARTY TO A

1 CONTRACT CONTAINING AN EXPRESS PROVISION THAT ASSIGNS OWNERSHIP
2 OF THOSE RENEWABLE AND ENVIRONMENTAL ATTRIBUTES. A
3 CUSTOMER-GENERATOR MAY NOT BE REQUIRED TO ASSIGN RENEWABLE
4 AND ENVIRONMENTAL ATTRIBUTES OF THE ELECTRICITY IT GENERATES IN
5 ORDER TO RECEIVE NET METERING OR INTERCONNECTION.

6 (9) EACH COOPERATIVE ELECTRIC ASSOCIATION SHALL PROVIDE
7 THE FOLLOWING, WHICH SHALL BE PUBLISHED ON THE COOPERATIVE
8 ELECTRIC ASSOCIATION'S WEB SITE:

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

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

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

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

16 (IV) THE TOTAL ESTIMATED AMOUNT OF ENERGY PRODUCED BY
17 THE CUSTOMER-GENERATORS;

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

20 (c) THE COOPERATIVE ELECTRIC ASSOCIATION'S INTERCONNECTION
21 STANDARDS AS THEY APPLY TO MEMBERS.

22 (10) A COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT BE
23 REQUIRED TO NET METER ANY ADDITIONAL GENERATING FACILITIES ONCE
24 THE TOTAL GENERATING CAPACITY OF ALL CUSTOMER-GENERATORS USING
25 NET METERING SYSTEMS IN THAT ASSOCIATION TOTALS ONE PERCENT OF
26 THE ASSOCIATION'S MONTHLY PEAK DEMAND FOR CALENDAR YEARS 2007
27 AND 2008, THREE PERCENT FOR CALENDAR YEARS 2009 AND 2010, AND

1 FIVE PERCENT THEREAFTER. NO SINGLE CUSTOMER-GENERATOR SYSTEM
2 SHALL COMPRISE MORE THAN TWENTY PERCENT OF THE PERCENTAGE CAPS
3 SPECIFIED IN THIS SUBSECTION (10).

4 **40-9.5-304. Interconnection - insurance.** (1) A COOPERATIVE
5 ELECTRIC ASSOCIATION AND A CUSTOMER-GENERATOR SHALL COMPLY
6 WITH THE INTERCONNECTION STANDARDS AND INSURANCE REQUIREMENTS
7 ESTABLISHED IN THE RULES PROMULGATED BY THE PUBLIC UTILITIES
8 COMMISSION PURSUANT TO SECTION 40-2-124; EXCEPT THAT SUBSECTION
9 (2) OF THIS SECTION SHALL APPLY WITH REGARD TO INSURANCE
10 REQUIREMENTS. ■ ■

11 (2) (a) A cooperative electric association may reduce or waive any
12 of the insurance requirements specified in subsection (1) of this section.

13 ■

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

27 (c) CERTIFICATES OF INSURANCE EVIDENCING THE REQUISITE

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

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