

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

INTRODUCED

LLS NO. 07-0230.01 Christy Chase

HOUSE BILL 07-1037

HOUSE SPONSORSHIP

Levy,

SENATE SPONSORSHIP

(None),

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROMOTE ENERGY EFFICIENCY.**

Bill Summary

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

Directs the public utilities commission (PUC) to adopt rules establishing funding and cost-recovery mechanisms for distributors of natural gas to engage in conservation and energy efficiency programs. Directs distributors of natural gas to develop and implement cost-effective energy efficiency programs once such rules are adopted. Requires periodic reports from the utilities and PUC review and approval of such programs. Specifies that this act does not extend PUC authority to nonregulated utility businesses or affiliates.

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

2 **SECTION 1.** 40-1-102, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
4 read:

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

7 (4.4) "COST-EFFECTIVE", WITH REFERENCE TO A NATURAL GAS
8 ENERGY EFFICIENCY OR CONSERVATION PROGRAM OR RELATED MEASURE,
9 MEANS HAVING A BENEFIT-COST RATIO GREATER THAN ONE USING THE
10 TOTAL RESOURCE COST TEST.

11 (4.6) "EDUCATION PROGRAM" MEANS A PROGRAM, INCLUDING BUT
12 NOT LIMITED TO AN ENERGY AUDIT, THAT CONTRIBUTES TO
13 COST-EFFECTIVE CONSERVATION AND ENERGY EFFICIENCY
14 IMPROVEMENTS. EDUCATION PROGRAMS SHALL NOT BE SUBJECT TO
15 COST-EFFECTIVENESS REQUIREMENTS.

16 (4.8) "FULL SERVICE CUSTOMER" MEANS A RESIDENTIAL OR
17 COMMERCIAL CUSTOMER THAT PURCHASES NATURAL GAS SUPPLY FROM
18 AN INVESTOR-OWNED GAS DISTRIBUTION UTILITY.

19 (7) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF
20 COST-EFFECTIVENESS THAT INCLUDES, AT A MINIMUM, COSTS PAID BY
21 BOTH PARTICIPATING CUSTOMERS AND AN INVESTOR-OWNED GAS
22 DISTRIBUTION UTILITY FOR CONSERVATION MEASURES, AS WELL AS THE
23 UTILITY'S AVOIDED ENERGY SUPPLY COSTS.

24 **SECTION 2.** 40-3.2-101, Colorado Revised Statutes, is amended
25 to read:

26 **40-3.2-101. Legislative declaration.** THE GENERAL ASSEMBLY

1 HEREBY FINDS, DETERMINES, AND DECLARES THAT COST-EFFECTIVE
2 NATURAL GAS ENERGY EFFICIENCY PROGRAMS WILL SAVE MONEY FOR
3 CONSUMERS AND UTILITIES AND PROTECT COLORADO'S ENVIRONMENT.
4 The general assembly ~~hereby~~ FURTHER finds, determines, and declares
5 that providing a funding ~~mechanism~~ MECHANISMS to encourage
6 Colorado's public utilities to reduce emissions or air pollutants ~~is a matter~~
7 AND TO INCREASE ENERGY EFFICIENCY ARE MATTERS of statewide
8 concern, ~~The general assembly further finds~~ AND that the public interest
9 is served by providing such funding ~~mechanism~~ MECHANISMS. Such
10 ~~reduction~~ EFFORTS will result in an improvement in the quality of life and
11 health of Colorado citizens and an increase in the attractiveness of
12 Colorado as a place to live and conduct business.

13 **SECTION 3.** Article 3.2 of title 40, Colorado Revised Statutes,
14 is amended BY THE ADDITION OF A NEW SECTION to read:

15 **40-3.2-103. Gas distribution utility energy efficiency programs**
16 **- rules - recovery of costs.** (1) ON OR BEFORE SEPTEMBER 30, 2007, THE
17 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING, AS
18 DESCRIBED IN SUBSECTION (2) OF THIS SECTION, TO DEVELOP EXPENDITURE
19 AND NATURAL GAS SAVINGS TARGETS, FUNDING AND COST-RECOVERY
20 MECHANISMS, AND A FINANCIAL BONUS STRUCTURE FOR ENERGY
21 EFFICIENCY AND CONSERVATION PROGRAMS IMPLEMENTED BY AN
22 INVESTOR-OWNED GAS DISTRIBUTION UTILITY, ALSO REFERRED TO IN THIS
23 SECTION AS A "GAS UTILITY".

24 (2) AS PART OF THE RULE-MAKING PROCEEDING REQUIRED BY
25 SUBSECTION (1) OF THIS SECTION, THE COMMISSION SHALL:

26 (a) ADOPT ENERGY EFFICIENCY PROGRAM EXPENDITURE TARGETS
27 EQUAL TO AT LEAST ONE-HALF OF ONE PERCENT OF A GAS UTILITY'S

1 REVENUES FROM ITS FULL SERVICE CUSTOMERS IN THE YEAR PRIOR TO
2 SETTING SUCH TARGETS;

3 (b) ESTABLISH ENERGY EFFICIENCY PROGRAM SAVINGS TARGETS
4 THAT ARE COMMENSURATE WITH PROGRAM EXPENDITURES AND
5 EXPRESSED IN TERMS OF AN AMOUNT OF GAS SAVED PER UNIT OF PROGRAM
6 EXPENDITURES;

7 (c) (I) ADOPT PROCEDURES FOR ALLOWING GAS UTILITIES TO
8 RECOVER THEIR PRUDENTLY INCURRED COSTS OF ENERGY EFFICIENCY AND
9 CONSERVATION PROGRAMS WITHOUT HAVING TO FILE A RATE CASE. SUCH
10 COSTS SHALL INCLUDE, BUT ARE NOT LIMITED TO, FACILITY INVESTMENTS;
11 REBATES; INTEREST RATE BUYDOWNS; INCREMENTAL LABOR COSTS,
12 EMPLOYEE BENEFITS, CARRYING COSTS, AND EMPLOYEE-RELATED
13 ADMINISTRATIVE COSTS; AND OTHER ADMINISTRATIVE COSTS. ALL SUCH
14 COSTS SHALL BE RECOVERED THROUGH A COST ADJUSTMENT MECHANISM
15 THAT IS SET ON AN ANNUAL BASIS, OR MORE FREQUENTLY IF DEEMED
16 APPROPRIATE, AND THAT IS SIMILAR TO COST ADJUSTMENT MECHANISMS
17 APPROVED BY THE COMMISSION FOR ELECTRICITY DEMAND-SIDE
18 MANAGEMENT PROGRAMS.

19 (II) COST ADJUSTMENT PROCEDURES SHALL GIVE GAS UTILITIES
20 THE OPTION OF OBTAINING COST RECOVERY EITHER THROUGH EXPENSING
21 ENERGY EFFICIENCY AND CONSERVATION PROGRAM EXPENDITURES OR
22 ADDING THEM TO BASE RATES, WITH AN AMORTIZATION PERIOD TO BE
23 DETERMINED BY THE COMMISSION. IN ADDITION, SUCH PROCEDURES
24 SHALL PROVIDE THAT COST RECOVERY FOR PROGRAMS DIRECTED AT
25 RESIDENTIAL CUSTOMERS ARE TO BE COLLECTED FROM RESIDENTIAL
26 CUSTOMERS ONLY AND THAT COST RECOVERY FOR PROGRAMS DIRECTED
27 AT NONRESIDENTIAL CUSTOMERS ARE TO BE COLLECTED FROM

1 NONRESIDENTIAL CUSTOMERS ONLY.

2 (d) ADOPT A BONUS STRUCTURE TO REWARD GAS UTILITIES FOR
3 INVESTMENTS IN COST-EFFECTIVE ENERGY EFFICIENCY AND
4 CONSERVATION PROGRAMS AND MEASURES. FOR EACH YEAR OF
5 OPERATION, THE BONUS SHALL BE CAPPED AT TWENTY-FIVE PERCENT OF
6 THE EXPENDITURES OR TWENTY PERCENT OF THE NET ECONOMIC BENEFITS
7 OF THE CONSERVATION AND ENERGY EFFICIENCY PROGRAMS, WHICHEVER
8 AMOUNT IS LOWER. THE AMOUNT OF THE BONUS AWARDED EACH YEAR
9 SHALL BE DETERMINED BASED ON THE EXTENT TO WHICH THE GAS UTILITY
10 HAS ACHIEVED THE TARGETS ESTABLISHED BY THE COMMISSION IN
11 ACCORDANCE WITH PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2).
12 THE BONUS SHALL NOT COUNT AGAINST A GAS UTILITY'S AUTHORIZED
13 RATE OF RETURN OR BE CONSIDERED IN RATE PROCEEDINGS.

14 (e) CONSIDER THE FACT THAT IMPLEMENTING THE NEW EFFICIENCY
15 AND CONSERVATION PROGRAMS MAY REQUIRE A PHASE-IN PERIOD BEFORE
16 A GAS UTILITY IS ABLE TO ACHIEVE THE FUNDING LEVEL DETERMINED BY
17 THE COMMISSION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).
18 A GAS UTILITY THAT IMPLEMENTS A NEW EFFICIENCY AND CONSERVATION
19 PROGRAM IN PHASES SHALL BE ELIGIBLE TO RECEIVE A BONUS UNDER THE
20 BONUS STRUCTURE ADOPTED PURSUANT TO PARAGRAPH (d) OF THIS
21 SUBSECTION (2) DURING ITS PHASE-IN PERIOD.

22 (f) NOT ADOPT ANY MEASURE AUTHORIZING A FINANCIAL PENALTY
23 AGAINST A GAS UTILITY THAT FAILS TO MEET THE TARGETS IN ANY
24 PARTICULAR YEAR.

25 (3) WITHIN TWELVE MONTHS AFTER THE COMPLETION OF THE
26 RULE-MAKING REQUIRED BY SUBSECTION (1) OF THIS SECTION, EACH GAS
27 UTILITY SHALL:

1 (a) DEVELOP AND BEGIN IMPLEMENTING A SET OF COST-EFFECTIVE
2 ENERGY EFFICIENCY AND CONSERVATION PROGRAMS FOR ITS FULL SERVICE
3 CUSTOMERS. SUCH PROGRAMS SHALL BE OF THE GAS UTILITY'S CHOOSING,
4 TAKING INTO ACCOUNT THE CHARACTERISTICS OF THE GAS UTILITY AND
5 ITS CUSTOMERS. THE PROGRAMS MAY BE TARGETED TO LOW-INCOME
6 CUSTOMERS AND, IF SO, MAY BE PROVIDED DIRECTLY BY THE GAS UTILITY
7 OR INDIRECTLY THROUGH FINANCIAL SUPPORT OF CONSERVATION
8 PROGRAMS FOR LOW-INCOME HOUSEHOLDS ADMINISTERED BY THE STATE.

9 (b) IN IMPLEMENTING ENERGY EFFICIENCY AND CONSERVATION
10 PROGRAMS, USE REASONABLE EFFORTS TO MAXIMIZE ENERGY SAVINGS
11 CONSISTENT WITH THE ANNUAL ENERGY EFFICIENCY BUDGET.

12 (4) IN IMPLEMENTING ENERGY EFFICIENCY AND CONSERVATION
13 PROGRAMS, GAS UTILITIES MAY SPEND A DISPROPORTIONATE SHARE OF
14 TOTAL EXPENDITURES ON ONE OR MORE CLASSES OF CUSTOMERS.

15 (5) THE COMMISSION SHALL AUTHORIZE EACH GAS UTILITY TO
16 RECOVER MONEYS SPENT FOR EDUCATION PROGRAMS, IMPACT AND
17 PROCESS EVALUATIONS, AND PROGRAM PLANNING RELATED TO NATURAL
18 GAS ENERGY EFFICIENCY AND CONSERVATION PROGRAMS OFFERED BY THE
19 GAS UTILITY.

20 (6) (a) GAS UTILITIES SHALL SUBMIT ANNUAL REPORTS TO THE
21 COMMISSION, AS DETERMINED BY THE COMMISSION BY RULE. THE ANNUAL
22 REPORT SHALL DESCRIBE THE GAS UTILITY'S ENERGY EFFICIENCY AND
23 CONSERVATION PROGRAMS AND SHALL DOCUMENT PROGRAM
24 EXPENDITURES, ENERGY SAVINGS IMPACTS AND THE TECHNIQUES USED TO
25 ESTIMATE THESE IMPACTS, THE ESTIMATED COST-EFFECTIVENESS OF
26 PROGRAM EXPENDITURES, AND ANY OTHER INFORMATION THE
27 COMMISSION MAY REQUIRE.

1 (b) THE COMMISSION SHALL REVIEW EACH REPORT SUBMITTED
2 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) AND SHALL
3 DETERMINE THE LEVEL OF BONUS, IF ANY, THAT THE GAS UTILITY IS
4 ELIGIBLE TO COLLECT ON THE BASIS OF THE INFORMATION INCLUDED IN
5 THE REPORT. THE COMMISSION'S DETERMINATION SHALL BE MADE WITHIN
6 THREE MONTHS AFTER RECEIVING THE REPORT. ANY SUCH BONUS SHALL
7 BE AUTHORIZED AS A SUPPLEMENT TO THE COST ADJUSTMENT MECHANISM
8 OR ALTERNATIVE MECHANISM APPROVED BY THE COMMISSION AND SHALL
9 BE APPLIED OVER A TWELVE-MONTH PERIOD AFTER APPROVAL OF THE
10 BONUS.

11 (7) GAS UTILITIES MAY CONTINUE ENERGY EFFICIENCY AND
12 CONSERVATION PROGRAMS THAT WERE IN EXISTENCE ON OR BEFORE THE
13 EFFECTIVE DATE OF THIS SUBSECTION (7), AND SHALL NOT BE REQUIRED TO
14 OBTAIN APPROVAL FROM THE COMMISSION FOR SUCH PROGRAMS.

15 (8) THIS SECTION SHALL NOT BE CONSTRUED TO EXTEND THE
16 COMMISSION'S AUTHORITY TO ANY NONREGULATED UTILITY BUSINESSES
17 OR AFFILIATES OF A GAS UTILITY.

18 **SECTION 4. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.