

**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. 07-0230.01 Christy Chase

HOUSE BILL 07-1037

HOUSE SPONSORSHIP

Levy,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Energy
Appropriations

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 COSTS PAID BY BOTH PARTICIPATING
21 CUSTOMERS AND AN INVESTOR-OWNED GAS DISTRIBUTION UTILITY FOR
22 CONSERVATION MEASURES COMPARED TO THE BENEFITS AS MEASURED BY
23 THE UTILITY'S AVOIDED ENERGY SUPPLY COSTS AND OTHER BENEFITS AS
24 DETERMINED BY THE COMMISSION.

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

1 **40-3.2-101. Legislative declaration.** THE GENERAL ASSEMBLY
2 HEREBY FINDS, DETERMINES, AND DECLARES THAT COST-EFFECTIVE
3 NATURAL GAS ENERGY EFFICIENCY PROGRAMS WILL SAVE MONEY FOR
4 CONSUMERS AND UTILITIES AND PROTECT COLORADO'S ENVIRONMENT.
5 The general assembly ~~hereby~~ FURTHER finds, determines, and declares
6 that providing a funding ~~mechanism~~ MECHANISMS to encourage
7 Colorado's public utilities to reduce emissions or air pollutants ~~is a matter~~
8 AND TO INCREASE ENERGY EFFICIENCY ARE MATTERS of statewide
9 concern, ~~The general assembly further finds~~ AND that the public interest
10 is served by providing such funding ~~mechanism~~ MECHANISMS. Such
11 ~~reduction~~ EFFORTS will result in an improvement in the quality of life and
12 health of Colorado citizens and an increase in the attractiveness of
13 Colorado as a place to live and conduct business.

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

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

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

27 (a) ADOPT ENERGY EFFICIENCY PROGRAM EXPENDITURE TARGETS

1 EQUAL TO AT LEAST ONE-HALF OF ONE PERCENT OF A NATURAL GAS
2 UTILITY'S REVENUES FROM ITS FULL SERVICE CUSTOMERS IN THE YEAR
3 PRIOR TO SETTING SUCH TARGETS;

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

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

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

1 AT NONRESIDENTIAL CUSTOMERS ARE TO BE COLLECTED FROM
2 NONRESIDENTIAL CUSTOMERS ONLY.

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

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

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

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

1 UTILITY SHALL:

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

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

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

17 (5) THE COMMISSION SHALL AUTHORIZE EACH GAS UTILITY TO
18 RECOVER MONEYS SPENT FOR EDUCATION PROGRAMS, IMPACT AND
19 PROCESS EVALUATIONS, AND PROGRAM PLANNING RELATED TO NATURAL
20 GAS ENERGY EFFICIENCY AND CONSERVATION PROGRAMS OFFERED BY THE
21 GAS UTILITY WITHOUT HAVING TO SHOW THAT SUCH EXPENDITURES ARE
22 COST-EFFECTIVE. THE COMMISSION MAY LIMIT THE AMOUNT SPENT FOR
23 THESE ACTIVITIES.

24 (6) (a) GAS UTILITIES SHALL SUBMIT ANNUAL REPORTS TO THE
25 COMMISSION, AS DETERMINED BY THE COMMISSION BY RULE. THE ANNUAL
26 REPORT SHALL DESCRIBE THE GAS UTILITY'S ENERGY EFFICIENCY AND
27 CONSERVATION PROGRAMS AND SHALL DOCUMENT PROGRAM

1 EXPENDITURES, ENERGY SAVINGS IMPACTS AND THE TECHNIQUES USED TO
2 ESTIMATE THESE IMPACTS, THE ESTIMATED COST-EFFECTIVENESS OF
3 PROGRAM EXPENDITURES, AND ANY OTHER INFORMATION THE
4 COMMISSION MAY REQUIRE.

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

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

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

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