

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 4, 2007  
Date

Committee on State, Veterans & Military Affairs.

After consideration on the merits, the Committee recommends the following:

HB07-1037 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 2, line 2, strike "40-1-102," and substitute  
2 "40-1-102 (5) and (6)," and, strike "is amended" and substitute "are  
3 amended, and the said 40-1-102 is further amended";
- 4 line 3, strike "SUBSECTIONS" and substitute "SUBSECTIONS,";
- 5 strike lines 7 through 10 and substitute the following:
- 6       (5) (a) ~~"Person" means any individual, firm, partnership,~~  
7 ~~corporation, company, association, joint stock association, and other legal~~  
8 ~~entity.~~ "COST-EFFECTIVE", WITH REFERENCE TO A NATURAL GAS OR  
9 ELECTRIC DEMAND SIDE MANAGEMENT PROGRAM OR RELATED MEASURE,  
10 MEANS HAVING A BENEFIT-COST RATIO GREATER THAN ONE.
- 11       (b) IN CALCULATING THE BENEFIT-COST RATIO, THE BENEFITS  
12 SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING, AS  
13 APPLICABLE:
- 14       (I) THE UTILITY'S AVOIDED GENERATION, TRANSMISSION,  
15 DISTRIBUTION, CAPACITY, AND ENERGY COSTS;
- 16       (II) THE VALUATION OF AVOIDED EMISSIONS; AND
- 17       (III) NONENERGY BENEFITS AS DETERMINED BY THE COMMISSION.

1 (c) IN CALCULATING THE BENEFIT-COST RATIO, THE COSTS SHALL  
2 INCLUDE, BUT ARE NOT LIMITED TO, UTILITY AND PARTICIPANT  
3 EXPENDITURES FOR THE FOLLOWING, AS APPLICABLE:

4 (I) PROGRAM DESIGN, ADMINISTRATION, EVALUATION,  
5 ADVERTISING, AND PROMOTION;

6 (II) CUSTOMER EDUCATION;

7 (III) INCENTIVES AND DISCOUNTS;

8 (IV) CAPITAL COSTS; AND

9 (V) OPERATION AND MAINTENANCE EXPENSES.

10 (6) ~~"Renewable energy" means useful electrical, thermal, or~~  
11 ~~mechanical energy converted directly or indirectly from resources of~~  
12 ~~continuous energy flow or that are perpetually replenished and whose~~  
13 ~~utilization is sustainable indefinitely. The term includes, without~~  
14 ~~limitation, sunlight, the wind, geothermal energy, hydrodynamic forces,~~  
15 ~~and organic matter available on a renewable basis such as forest residues,~~  
16 ~~agricultural crops and wastes, wood and wood wastes, animal wastes,~~  
17 ~~livestock operation residue, aquatic plants, and municipal wastes.~~  
18 "DEMAND-SIDE MANAGEMENT PROGRAMS" OR "DSM PROGRAMS" MEANS  
19 ENERGY EFFICIENCY, CONSERVATION, LOAD MANAGEMENT, AND DEMAND  
20 RESPONSE PROGRAMS OR ANY COMBINATION OF THESE PROGRAMS.";

21 line 11, strike "(4.6)" and substitute "(7)";

22 line 12, after "CONTRIBUTES", insert "INDIRECTLY";

23 strike line 13 and substitute the following:

24 "A COST-EFFECTIVE DEMAND-SIDE MANAGEMENT PROGRAM.";

25 line 14, strike "IMPROVEMENTS.";

26 line 15, before "COST-EFFECTIVENESS", insert "INDEPENDENT";

27 line 16, strike "(4.8)" and substitute "(8)";



1 line 17, after "GAS", insert "OR ELECTRIC";

2 line 18, strike "GAS DISTRIBUTION";

3 strike lines 19 through 24 and substitute the following:

4           (9) "NET PRESENT VALUE OF REVENUE REQUIREMENTS" MEANS  
5 THE CURRENT WORTH OF THE EXPECTED STREAM OF FUTURE REVENUE  
6 REQUIREMENTS ASSOCIATED WITH A PARTICULAR RESOURCE PORTFOLIO,  
7 EXPRESSED IN DOLLARS IN THE YEAR THE PLAN IS FILED. TO DETERMINE  
8 THE CURRENT WORTH OF THE EXPECTED STREAM OF FUTURE REVENUE  
9 REQUIREMENTS, A DISCOUNT RATE AT THE UTILITY'S WEIGHTED AVERAGE  
10 COST OF CAPITAL SHALL BE APPLIED TO THE EXPECTED STREAM OF FUTURE  
11 REVENUE REQUIREMENTS.

12           (10) "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP,  
13 CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION, AND  
14 OTHER LEGAL ENTITY.

15           (11) "RENEWABLE ENERGY" MEANS USEFUL ELECTRICAL,  
16 THERMAL, OR MECHANICAL ENERGY CONVERTED DIRECTLY OR INDIRECTLY  
17 FROM RESOURCES OF CONTINUOUS ENERGY FLOW OR THAT ARE  
18 PERPETUALLY REPLENISHED AND WHOSE UTILIZATION IS SUSTAINABLE  
19 INDEFINITELY. THE TERM INCLUDES, WITHOUT LIMITATION, SUNLIGHT,  
20 THE WIND, GEOTHERMAL ENERGY, HYDRODYNAMIC FORCES, AND ORGANIC  
21 MATTER AVAILABLE ON A RENEWABLE BASIS SUCH AS FOREST RESIDUES,  
22 AGRICULTURAL CROPS AND WASTES, WOOD AND WOOD WASTES, ANIMAL  
23 WASTES, LIVESTOCK OPERATION RESIDUE, AQUATIC PLANTS, AND  
24 MUNICIPAL WASTES."

25 Page 3, line 4, strike "ENERGY EFFICIENCY" and substitute "AND  
26 ELECTRICITY DEMAND-SIDE MANAGEMENT";

27 line 16, strike "A NEW SECTION" and substitute "THE FOLLOWING  
28 NEW SECTIONS";

29 line 17, strike "**energy efficiency**" and substitute "**demand-side  
30 management**";

31 line 22, strike "ENERGY";



1 line 23, strike "EFFICIENCY AND CONSERVATION" and substitute  
2 "DEMAND-SIDE MANAGEMENT".

3 Page 4, line 1, strike "ENERGY EFFICIENCY" and substitute "DSM";

4 line 5, strike "ENERGY EFFICIENCY" and substitute "DSM";

5 line 10, strike "ENERGY EFFICIENCY AND" and substitute "DSM";

6 line 11, strike "CONSERVATION";

7 strike lines 18 through 20 and substitute the following:

8 "APPROPRIATE.";

9 line 23, strike "ENERGY EFFICIENCY AND CONSERVATION" and substitute  
10 "DSM".

11 Page 5, line 5, strike "ENERGY EFFICIENCY AND" and substitute "DSM";

12 line 6, strike "CONSERVATION PROGRAMS AND MEASURES." and substitute  
13 "PROGRAMS.";

14 line 9, strike "CONSERVATION AND ENERGY EFFICIENCY" and substitute  
15 "DSM";

16 line 16, strike "EFFICIENCY";

17 line 17, strike "AND CONSERVATION" and substitute "DSM";

18 line 20, strike "EFFICIENCY AND CONSERVATION" and substitute "DSM".

19 Page 6, line 4, strike "ENERGY EFFICIENCY AND CONSERVATION" and  
20 substitute "DSM";

21 line 12, strike "ENERGY EFFICIENCY AND CONSERVATION" and substitute  
22 "DSM";

23 line 15, strike "ENERGY EFFICIENCY AND CONSERVATION" and substitute  
24 "DSM";



1 line 21, strike "ENERGY EFFICIENCY AND CONSERVATION" and substitute  
2 "DSM";

3 line 22, strike "EXPENDITURES" and substitute "EXPENDITURES, ON AN  
4 INDEPENDENT BASIS,";

5 line 27, strike "ENERGY EFFICIENCY AND".

6 Page 7, line 1, strike "CONSERVATION" and substitute "DSM";

7 line 16, strike "ENERGY EFFICIENCY AND" and substitute "DSM";

8 line 17, strike "CONSERVATION";

9 strike lines 23 through 27 and substitute the following:

10 **"40-3.2-104. Electricity utility demand-side management**  
11 **programs - rules - annual report.** (1) IT IS THE POLICY OF THE STATE  
12 OF COLORADO THAT A PRIMARY GOAL OF ELECTRIC UTILITY LEASE-COST  
13 RESOURCE PLANNING IS TO MINIMIZE THE NET PRESENT VALUE OF  
14 REVENUE REQUIREMENTS. THE COMMISSION MAY ADOPT RULES AS  
15 NECESSARY TO IMPLEMENT THIS POLICY.

16 (2) THE COMMISSION SHALL ESTABLISH ENERGY SAVINGS AND  
17 PEAK DEMAND REDUCTION GOALS TO BE ACHIEVED BY AN  
18 INVESTOR-OWNED ELECTRIC UTILITY, TAKING INTO ACCOUNT THE  
19 UTILITY'S COST-EFFECTIVE DSM POTENTIAL, THE NEED FOR ELECTRICITY  
20 RESOURCES, THE BENEFITS OF DSM INVESTMENTS, AND OTHER FACTORS  
21 AS DETERMINED BY THE COMMISSION. THE ENERGY SAVINGS AND PEAK  
22 DEMAND REDUCTION GOALS SHALL BE AT LEAST FIVE PERCENT OF THE  
23 UTILITY'S RETAIL SYSTEM PEAK DEMAND MEASURED IN MEGAWATTS IN  
24 THE BASE YEAR AND AT LEAST FIVE PERCENT OF THE UTILITY'S RETAIL  
25 ENERGY SALES MEASURED IN MEGAWATT-HOURS IN THE BASE YEAR. THE  
26 BASE YEAR SHALL BE 2006. THE GOALS SHALL BE MET BY 2018, COUNTING  
27 SAVINGS FROM DSM PROGRAMS STARTING IN 2006. THE COMMISSION  
28 MAY ESTABLISH INTERIM GOALS AND MAY REVISE THE GOALS AS IT DEEMS  
29 APPROPRIATE.

30 (3) THE COMMISSION SHALL PERMIT ELECTRIC UTILITIES TO  
31 IMPLEMENT COST-EFFECTIVE ELECTRICITY DSM PROGRAMS TO REDUCE  
32 THE NEED FOR ADDITIONAL RESOURCES THAT WOULD OTHERWISE BE MET



1 THROUGH A COMPETITIVE ACQUISITION PROCESS.

2 (4) THE COMMISSION SHALL ENSURE THAT UTILITIES DEVELOP AND  
3 IMPLEMENT DSM PROGRAMS THAT GIVE ALL CLASSES OF CUSTOMERS AN  
4 OPPORTUNITY TO PARTICIPATE AND SHALL GIVE DUE CONSIDERATION TO  
5 THE IMPACT OF DSM PROGRAMS ON NONPARTICIPANTS AND ON  
6 LOW-INCOME CUSTOMERS.

7 (5) THE COMMISSION SHALL ENSURE THAT A UTILITY'S  
8 INVESTMENTS IN DSM PROGRAMS ARE MORE PROFITABLE TO THE UTILITY  
9 THAN ANY OTHER UTILITY INVESTMENT THAT IS NOT ALREADY SUBJECT TO  
10 SPECIAL INCENTIVES. TO ENSURE SUCH PROFITABILITY, THE COMMISSION  
11 SHALL CONSIDER, WITHOUT LIMITATION, THE FOLLOWING INCENTIVE  
12 MECHANISMS, WHICH SHALL TAKE INTO CONSIDERATION THE  
13 PERFORMANCE OF THE DSM PROGRAM:

14 (a) AN INCENTIVE TO ALLOW A RATE OF RETURN ON DSM  
15 INVESTMENTS THAT IS HIGHER THAN THE UTILITY'S RATE OF RETURN ON  
16 OTHER INVESTMENTS;

17 (b) AN INCENTIVE TO ALLOW THE UTILITY TO ACCELERATE THE  
18 DEPRECIATION OR AMORTIZATION PERIOD FOR DSM INVESTMENTS;

19 (c) AN INCENTIVE TO ALLOW THE UTILITY TO RETAIN A PORTION OF  
20 THE NET ECONOMIC BENEFITS ASSOCIATED WITH A DSM PROGRAM FOR ITS  
21 SHAREHOLDERS;

22 (d) AN INCENTIVE TO ALLOW THE UTILITY TO COLLECT THE COSTS  
23 OF DSM PROGRAMS THROUGH A COST ADJUSTMENT CLAUSE;

24 (e) OTHER INCENTIVE MECHANISMS THAT THE COMMISSION DEEMS  
25 APPROPRIATE.

26 (6) EACH INVESTOR-OWNED ELECTRIC UTILITY SHALL SUBMIT AN  
27 ANNUAL REPORT TO THE COMMISSION DESCRIBING THE DSM PROGRAMS  
28 IMPLEMENTED BY THE ELECTRIC UTILITY IN THE PREVIOUS YEAR. THE  
29 REPORT SHALL DOCUMENT THE FOLLOWING:

30 (a) PROGRAM EXPENDITURES, INCLUDING INCENTIVE PAYMENTS;

31 (b) PEAK DEMAND AND ENERGY SAVINGS IMPACTS AND THE



1     TECHNIQUES USED TO ESTIMATE THOSE IMPACTS;

2             (c) AVOIDED COSTS AND THE TECHNIQUES USED TO ESTIMATE  
3     THOSE COSTS;

4             (d) THE ESTIMATED COST-EFFECTIVENESS OF THE DSM  
5     PROGRAMS;

6             (e) THE NET ECONOMIC BENEFITS OF THE DSM PROGRAMS; AND

7             (f) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

8             **40-3.2-105. Reporting requirement.** BY APRIL 30, 2009, AND BY  
9     EACH APRIL 30 THEREAFTER, THE COMMISSION SHALL SUBMIT A REPORT  
10    TO THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE,  
11    OR ITS SUCCESSOR COMMITTEE, AND THE BUSINESS AFFAIRS AND LABOR OF  
12    THE HOUSE OF REPRESENTATIVES, OR ITS SUCCESSOR COMMITTEE, ON THE  
13    PROGRESS MADE BY INVESTOR-OWNED UTILITIES IN MEETING THEIR  
14    NATURAL GAS AND ELECTRICITY DEMAND-SIDE MANAGEMENT GOALS.  
15    THE REPORT SHALL INCLUDE ANY RECOMMENDED STATUTORY CHANGES  
16    THE COMMISSION DEEMS NECESSARY TO FURTHER THE INTENT OF  
17    SECTIONS 40-3.2-103 AND 40-3.2-104."

18    Page 8, strike lines 1 and 2.

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