

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 05-1133

BY REPRESENTATIVE(S) Plant, Borodkin, Boyd, Butcher, Carroll M., Coleman, Frangas, Green, Lindstrom, Madden, Marshall, McGihon, Merrifield, Paccione, Todd, Buescher, Gallegos, and Pommer;
also SENATOR(S) Gordon, Bacon, Hanna, Shaffer, Tupa, and Williams.

CONCERNING MEASURES TO PROMOTE ENERGY EFFICIENCY.

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

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

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

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

(4.6) "EDUCATION PROGRAM" MEANS A PROGRAM, INCLUDING BUT NOT LIMITED TO ENERGY USAGE ASSESSMENTS, THAT INDIRECTLY CONTRIBUTES TO COST-EFFECTIVE CONSERVATION AND ENERGY EFFICIENCY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

IMPROVEMENTS. EDUCATION PROGRAMS SHALL NOT BE SUBJECT TO COST-EFFECTIVENESS REQUIREMENTS.

(7) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF COST-EFFECTIVENESS THAT INCLUDES, AT A MINIMUM, COSTS PAID BY BOTH PARTICIPATING CUSTOMERS AND A UTILITY, AS WELL AS THE UTILITY'S AVOIDED ENERGY SUPPLY COSTS.

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

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

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

40-3.2-103. Gas distribution utility energy efficiency programs - recovery of costs. (1) ON OR BEFORE SEPTEMBER 30, 2005, THE COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO DEVELOP FUNDING AND COST RECOVERY MECHANISMS FOR RESIDENTIAL ENERGY EFFICIENCY AND CONSERVATION PROGRAMS DEVELOPED AND IMPLEMENTED BY INVESTOR-OWNED GAS DISTRIBUTION UTILITIES. THE RULE-MAKING SHALL ALSO IDENTIFY DISINCENTIVES AS WELL AS IDENTIFY AND ESTABLISH A POSITIVE FINANCIAL INCENTIVE FOR INVESTMENTS IN COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS TO INDUCE GAS DISTRIBUTION UTILITIES TO UNDERTAKE SUCH EFFORTS. THE POSITIVE FINANCIAL INCENTIVE SHALL BE IN THE FORM OF A HIGHER ALLOWED RETURN ON ENERGY EFFICIENCY PROGRAM INVESTMENTS, WHICH RETURN SHALL BE AT LEAST TWO PERCENT HIGHER THAN THAT ALLOWED FOR OTHER UTILITY

INVESTMENTS. IF THE COMMISSION ALLOWS ANY ADDITIONAL INCENTIVE BEYOND SUCH TWO-PERCENT DIFFERENTIAL, THE ADDITIONAL INCENTIVE MAY BE COUPLED WITH, OR EXPRESSED AS A FRACTION OF, THE NET ECONOMIC BENEFITS RESULTING FROM THE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS.

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

(a) ADOPT A PROCEDURE FOR ALLOWING GAS UTILITIES TO RECOVER THEIR PRUDENTLY INCURRED COSTS OF ENERGY EFFICIENCY AND CONSERVATION PROGRAMS THROUGH AN ANNUAL COST ADJUSTMENT MECHANISM SIMILAR TO THAT USED BY PUBLIC SERVICE COMPANY OF COLORADO, OR ITS SUCCESSORS AND AFFILIATES, FOR ITS ELECTRICITY DEMAND-SIDE MANAGEMENT PROGRAMS AS OF JANUARY 1, 2005; EXCEPT THAT INDUSTRIAL AND COMMERCIAL CUSTOMERS SHALL BE EXEMPT FROM ANY SUCH COST ADJUSTMENT MECHANISM;

(b) IDENTIFY BARRIERS THAT FINANCIALLY PENALIZE GAS DISTRIBUTION UTILITIES IF THEY IMPLEMENT COST-EFFECTIVE ENERGY EFFICIENCY PROGRAMS FOR THEIR CUSTOMERS; AND

(c) ADOPT MECHANISMS FOR REWARDING GAS DISTRIBUTION UTILITIES FOR INVESTMENTS IN COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND MEASURES.

(3) WITHIN SIX MONTHS AFTER THE COMPLETION OF THE RULE-MAKING REQUIRED BY SUBSECTION (1) OF THIS SECTION, INVESTOR-OWNED GAS DISTRIBUTION UTILITIES SHALL:

(a) DEVELOP AND PROPOSE A SET OF UTILITY-INITIATED ENERGY EFFICIENCY AND CONSERVATION PROGRAMS FOR THEIR RESIDENTIAL CUSTOMERS, SUBJECT TO APPROVAL BY THE COMMISSION PURSUANT TO SUBSECTION (4) OF THIS SECTION; AND

(b) IN IMPLEMENTING ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, USE THEIR BEST EFFORTS TO OFFER ENERGY EFFICIENCY AND CONSERVATION PROGRAMS TO RESIDENTIAL CUSTOMERS AND MAXIMIZE CUSTOMER PARTICIPATION.

(4) THE COMMISSION SHALL EXPEDITIOUSLY REVIEW THE ENERGY

EFFICIENCY AND CONSERVATION PROGRAMS PROPOSED PURSUANT TO SUBSECTION (3) OF THIS SECTION, AND SHALL APPROVE SUCH PROGRAMS IF THEY APPEAR TO BE COST-EFFECTIVE.

(5) THE COMMISSION SHALL AUTHORIZE GAS DISTRIBUTION UTILITIES TO SPEND AND RECOVER MONEYS FOR EDUCATION PROGRAMS, IMPACT AND PROCESS EVALUATIONS, AND GAS EFFICIENCY PROGRAM PLANNING.

(6) GAS DISTRIBUTION UTILITIES SHALL SUBMIT TO THE COMMISSION REPORTS ON THEIR ENERGY EFFICIENCY AND CONSERVATION PROGRAMS ANNUALLY. THE REPORTS SHALL DOCUMENT PROGRAM EXPENDITURES, ENERGY SAVINGS IMPACTS AND THE TECHNIQUES USED TO ESTIMATE THESE IMPACTS, THE ESTIMATED COST-EFFECTIVENESS OF PROGRAM EXPENDITURES, AND ANY OTHER INFORMATION THE COMMISSION MAY REQUIRE.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO