

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 9, 2005  
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Date

Committee on Transportation & Energy.

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

HB05-1133 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute the following:

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

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

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

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

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

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

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

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

17           **40-3.2-103. Gas distribution utility energy efficiency programs**  
18 **- recovery of costs.** (1) ON OR BEFORE SEPTEMBER 30, 2005, THE  
19 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO DEVELOP  
20 FUNDING AND COST RECOVERY MECHANISMS FOR RESIDENTIAL ENERGY  
21 EFFICIENCY AND CONSERVATION PROGRAMS IMPLEMENTED BY  
22 INVESTOR-OWNED GAS DISTRIBUTION UTILITIES. THE RULE-MAKING SHALL  
23 ALSO IDENTIFY DISINCENTIVES AS WELL AS IDENTIFY AND ESTABLISH A  
24 POSITIVE FINANCIAL INCENTIVE FOR INVESTMENTS IN COST-EFFECTIVE  
25 ENERGY EFFICIENCY AND CONSERVATION PROGRAMS TO INDUCE GAS  
26 DISTRIBUTION UTILITIES TO UNDERTAKE SUCH EFFORTS. THE POSITIVE  
27 FINANCIAL INCENTIVE SHALL BE IN THE FORM OF A HIGHER ALLOWED  
28 RETURN ON ENERGY EFFICIENCY PROGRAM INVESTMENTS, WHICH RETURN  
29 SHALL BE AT LEAST TWO PERCENT HIGHER THAN THAT ALLOWED FOR  
30 OTHER UTILITY INVESTMENTS. IF THE COMMISSION ALLOWS ANY  
31 ADDITIONAL INCENTIVE BEYOND SUCH TWO-PERCENT DIFFERENTIAL, THE  
32 ADDITIONAL INCENTIVE MAY BE COUPLED WITH, OR EXPRESSED AS A  
33 FRACTION OF, THE NET ECONOMIC BENEFITS RESULTING FROM THE ENERGY  
34 EFFICIENCY AND CONSERVATION PROGRAMS.

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

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

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

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

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

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

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

26 (4) THE COMMISSION SHALL EXPEDITIOUSLY REVIEW THE ENERGY  
27 EFFICIENCY AND CONSERVATION PROGRAMS PROPOSED PURSUANT TO  
28 SUBSECTION (3) OF THIS SECTION, AND SHALL APPROVE SUCH PROGRAMS  
29 IF THEY APPEAR TO BE COST-EFFECTIVE.

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

34 (6) GAS DISTRIBUTION UTILITIES SHALL SUBMIT TO THE  
35 COMMISSION REPORTS ON THEIR ENERGY EFFICIENCY AND CONSERVATION

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

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

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