

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

INTRODUCED

LLS NO. 07-0367.03 Thomas Morris

HOUSE BILL 07-1281

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A BILL FOR AN ACT

101 **CONCERNING INCREASED RENEWABLE ENERGY STANDARDS.**

Bill Summary

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

Expands the definition of "qualifying retail utility" to include providers of retail electric services, other than municipally owned utilities, that serve 40,000 customers or less. Raises the renewable energy standard for electrical generation by qualifying retail utilities other than cooperative electric associations and municipally owned utilities that serve more than 40,000 customers to 5% by 2008, 10% by 2011, 15% by 2015, and 20% by 2020. Establishes a renewable energy standard for cooperative electric associations and municipally owned utilities that serve more than 40,000 customers of 1% by 2008, 3% by 2011, 6% by

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.

2015, and 10% by 2020. Defines "eligible energy resources" to include recycled energy and renewable energy resources.

For the purposes of cooperative electric associations' compliance with the renewable energy standard, counts each kilowatt-hour of renewable electricity generated from:

A community-based project as 1.5 kilowatt-hours; and

Solar electric generation technologies as 3 kilowatt-hours.

Allows each kilowatt-hour to take advantage of only one of the multipliers.

Adjusts the cost-recovery standards. Raises the maximum retail rate impact of complying with the standard to 2% for qualifying retail utilities other than cooperative electric associations. Prevents qualifying retail utilities from opting out of compliance with the renewable energy standard. Requires cooperative electric associations to submit annual reports to the public utilities commission concerning their compliance with the renewable energy standard.

Encourages electric utilities to establish community energy funds for the development of projects for the further development of renewable energy, energy efficiency, conservation, and environmental improvement.

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

2 **SECTION 1.** 40-2-124, Colorado Revised Statutes, is amended
3 to read:

4 **40-2-124. Renewable energy standard.** (1) Each provider of
5 retail electric service in the state of Colorado, ~~that serves over~~ OTHER
6 THAN MUNICIPALLY OWNED UTILITIES THAT SERVE forty thousand
7 customers OR LESS, shall be considered a qualifying retail utility. Each
8 qualifying retail utility, with the exception of cooperative electric
9 associations that have voted to exempt themselves from commission
10 jurisdiction pursuant to section 40-9.5-104 and municipally owned
11 utilities, shall be subject to the rules established under this article by the
12 commission. No additional regulatory authority of the commission other
13 than that specifically contained ~~herein~~ IN THIS SECTION is provided or
14 implied. In accordance with article 4 of title 24, C.R.S., on or before

1 ~~April 1, 2005~~ OCTOBER 1, 2007, the commission shall initiate one or more
2 rule-making processes to establish the following:

3 (a) Definitions of eligible ~~renewable~~ energy resources that can be
4 used to meet the standards. "Eligible ~~renewable~~ energy resources" ~~are~~
5 MEANS RECYCLED ENERGY AND RENEWABLE ENERGY RESOURCES.
6 "RENEWABLE ENERGY RESOURCES" MEANS solar, wind, geothermal,
7 biomass, new hydroelectricity with a nameplate rating of ten megawatts
8 or less, and hydroelectricity in existence on January 1, 2005, with a
9 nameplate rating of thirty megawatts or less. The commission shall
10 determine, following an evidentiary hearing, the extent to which such
11 electric generation technologies utilized in an optional pricing program
12 may be used to comply with this standard. A fuel cell using hydrogen
13 derived from ~~these~~ AN eligible ~~resources~~ ENERGY RESOURCE is also an
14 eligible electric generation technology. Fossil and nuclear fuels and their
15 derivatives are not eligible ENERGY resources. ~~Further~~ FOR PURPOSES OF
16 THIS SECTION:

17 (I) "Biomass" ~~shall be defined to mean~~ MEANS:

18 ~~(H)~~ (A) Nontoxic plant matter consisting of agricultural crops or
19 their byproducts, urban wood waste, mill residue, slash, or brush;

20 ~~(H)~~ (B) Animal wastes and products of animal wastes; or

21 ~~(H)~~ (C) Methane produced at landfills or as a by-product of the
22 treatment of wastewater residuals.

23 (II) "RECYCLED ENERGY" MEANS ENERGY PRODUCED BY A
24 GENERATION UNIT WITH A NAMEPLATE CAPACITY OF NOT MORE THAN
25 FIFTEEN MEGAWATTS THAT CONVERTS THE OTHERWISE LOST ENERGY
26 FROM THE HEAT FROM EXHAUST STACKS OR PIPES TO ELECTRICITY AND
27 THAT DOES NOT COMBUST ADDITIONAL FOSSIL FUEL. "RECYCLED ENERGY"

1 DOES NOT INCLUDE ENERGY PRODUCED BY ANY SYSTEM THAT USES
2 ENERGY, LOST OR OTHERWISE, FROM A PROCESS WHOSE PRIMARY PURPOSE
3 IS THE GENERATION OF ELECTRICITY, INCLUDING, WITHOUT LIMITATION,
4 ANY PROCESS INVOLVING ENGINE-DRIVEN GENERATION OR PUMPED
5 HYDROELECTRICITY GENERATION.

6 (b) Standards for the design, placement, and management of
7 electric generation technologies that use eligible ~~renewable~~ energy
8 resources to ensure that the environmental impacts of such facilities are
9 minimized.

10 (c) ~~(f)~~ Electric resource standards: ~~for renewable energy~~
11 ~~resources:~~

12 (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (V) OF THIS
13 PARAGRAPH (c), the electric resource standards shall require each
14 qualifying retail utility to generate, or cause to be generated, electricity
15 from eligible ~~renewable~~ energy resources in the following minimum
16 amounts:

17 (A) Three percent of its retail electricity sales in Colorado for the
18 ~~years~~ YEAR 2007; ~~through 2010;~~

19 (B) FIVE PERCENT OF ITS RETAIL ELECTRICITY SALES IN COLORADO
20 FOR THE YEARS 2008 THROUGH 2010;

21 ~~(B)~~ (C) ~~Six~~ TEN percent of its retail electricity sales in Colorado
22 for the years 2011 through 2014;

23 ~~(C)~~ (D) ~~Ten~~ FIFTEEN percent of its retail electricity sales in
24 Colorado for the years 2015 ~~and thereafter.~~ THROUGH 2019; AND

25 (E) TWENTY PERCENT OF ITS RETAIL ELECTRICITY SALES IN
26 COLORADO FOR THE YEARS 2020 AND THEREAFTER.

27 (II) Of the amounts in subparagraph (I) of paragraph (c) of this

1 subsection (1), at least four percent shall be derived from solar electric
2 generation technologies. At least one-half of this four percent shall be
3 derived from solar electric technologies located on-site at customers'
4 facilities.

5 (III) Each kilowatt-hour of ~~renewable~~ electricity generated FROM
6 ELIGIBLE ENERGY RESOURCES in Colorado shall be counted as one and
7 one-quarter kilowatt-hours for the purposes of compliance with this
8 standard.

9 (IV) To the extent that the ability of a qualifying retail utility to
10 acquire eligible ~~renewable electric generation~~ ENERGY RESOURCES is
11 limited by a requirements contract with a wholesale electric supplier, the
12 qualifying retail utility shall acquire the maximum amount allowed by the
13 contract. For any shortfalls to the amounts established by the commission
14 pursuant to subparagraph (I) of THIS paragraph (c), ~~of this subsection (1)~~,
15 the qualifying retail utility shall acquire an equivalent amount of either
16 renewable energy credits; documented and verified energy savings
17 through energy efficiency and conservation programs; or a combination
18 of both. Any contract entered into by a qualifying retail utility after
19 December 1, 2004, shall not conflict with this article.

20 (V) NOTWITHSTANDING ANY OTHER PROVISION OF LAW BUT
21 SUBJECT TO SUBSECTION (4) OF THIS SECTION, THE ELECTRIC RESOURCE
22 STANDARDS SHALL REQUIRE COOPERATIVE ELECTRIC ASSOCIATIONS AND
23 MUNICIPALLY OWNED UTILITIES THAT ARE QUALIFYING RETAIL UTILITIES
24 TO GENERATE, OR CAUSE TO BE GENERATED, ELECTRICITY FROM ELIGIBLE
25 ENERGY RESOURCES IN THE FOLLOWING MINIMUM AMOUNTS:

26 (A) ONE PERCENT OF RETAIL ELECTRICITY SALES IN COLORADO
27 FOR THE YEARS 2008 THROUGH 2010;

1 (B) THREE PERCENT OF RETAIL ELECTRICITY SALES IN COLORADO
2 FOR THE YEARS 2011 THROUGH 2014;

3 (C) SIX PERCENT OF RETAIL ELECTRICITY SALES IN COLORADO FOR
4 THE YEARS 2015 THROUGH 2019; AND

5 (D) TEN PERCENT OF RETAIL ELECTRICITY SALES IN COLORADO
6 FOR THE YEARS 2020 AND THEREAFTER.

7 (VI) EACH KILOWATT-HOUR OF ELECTRICITY GENERATED FROM
8 ELIGIBLE ENERGY RESOURCES AT A COMMUNITY-BASED PROJECT SHALL BE
9 COUNTED AS ONE AND ONE-HALF KILOWATT-HOURS. FOR PURPOSES OF
10 THIS SUBPARAGRAPH (VI), "COMMUNITY-BASED PROJECT" MEANS A
11 PROJECT LOCATED IN COLORADO:

12 (A) THAT IS OWNED BY INDIVIDUAL RESIDENTS OF A COMMUNITY,
13 NONPROFIT ORGANIZATION, COOPERATIVE, LOCAL GOVERNMENT ENTITY,
14 OR TRIBAL COUNCIL;

15 (B) OF WHICH NO SINGLE INDIVIDUAL OWNS MORE THAN FIFTEEN
16 PERCENT; AND

17 (C) FOR WHICH THERE IS A RESOLUTION OF SUPPORT ADOPTED BY
18 THE LOCAL GOVERNING BODY OF EACH LOCAL JURISDICTION IN WHICH THE
19 PROJECT IS TO BE LOCATED.

20 (VII) (A) FOR PURPOSES OF COOPERATIVE ELECTRIC
21 ASSOCIATIONS' COMPLIANCE WITH THE STANDARDS SET FORTH IN
22 SUBPARAGRAPH (V) OF THIS PARAGRAPH (c), EACH KILOWATT-HOUR OF
23 RENEWABLE ELECTRICITY GENERATED FROM SOLAR ELECTRIC
24 GENERATION TECHNOLOGIES SHALL BE COUNTED AS THREE
25 KILOWATT-HOURS.

26 (B) SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (VII)
27 APPLIES ONLY TO SOLAR ELECTRIC TECHNOLOGIES THAT BEGIN PRODUCING

1 ELECTRICITY PRIOR TO JULY 1, 2015. FOR SOLAR ELECTRIC TECHNOLOGIES
2 THAT BEGIN PRODUCING ELECTRICITY ON OR AFTER JULY 1, 2015, EACH
3 KILOWATT-HOUR OF RENEWABLE ELECTRICITY SHALL BE COUNTED AS ONE
4 KILOWATT-HOUR FOR PURPOSES OF COMPLIANCE WITH THE RENEWABLE
5 ENERGY STANDARD.

6 (VIII) EACH KILOWATT-HOUR OF ELECTRICITY FROM ELIGIBLE
7 ENERGY RESOURCES MAY TAKE ADVANTAGE OF ONLY ONE OF THE
8 METHODS FOR COUNTING KILOWATT-HOURS SET FORTH IN
9 SUBPARAGRAPHS (III), (VI), AND (VII) OF THIS PARAGRAPH (c).

10 (d) A system of tradable renewable energy credits that may be
11 used by a qualifying retail utility to comply with this standard. The
12 commission shall also analyze the effectiveness of utilizing any regional
13 system of renewable energy credits in existence at the time of its
14 rule-making process and determine whether the system is governed by
15 rules that are consistent with the rules established for this article. THE
16 COMMISSION SHALL NOT RESTRICT THE QUALIFYING RETAIL UTILITY'S
17 OWNERSHIP OF RENEWABLE ENERGY CREDITS IF THE QUALIFYING RETAIL
18 UTILITY COMPLIES WITH THE ELECTRIC RESOURCE STANDARD OF
19 PARAGRAPH (c) OF THIS SUBSECTION (1) AND DOES NOT EXCEED THE
20 RETAIL RATE IMPACT ESTABLISHED BY PARAGRAPH (g) OF THIS
21 SUBSECTION (1).

22 (e) A standard rebate offer program. Each qualifying retail utility
23 shall make available to its retail electricity customers a standard rebate
24 offer of a minimum of two dollars per watt for the installation of eligible
25 solar electric generation on customers' premises up to a maximum of one
26 hundred kilowatts per installation. Such offer shall allow the customer's
27 retail electricity consumption to be offset by the solar electricity

1 generated. To the extent that solar electricity generation exceeds the
2 customer's consumption during a billing month, such excess electricity
3 shall be carried forward as a credit to the following month's consumption.
4 To the extent that solar electricity generation exceeds the customer's
5 consumption during a calendar year, the customer shall be reimbursed by
6 the qualifying retail utility at its average hourly incremental cost of
7 electricity supply over the prior twelve-month period. The qualifying
8 retail utility shall not apply unreasonably burdensome interconnection
9 requirements in connection with this standard rebate offer. Electricity
10 generated under this program shall be eligible for the qualifying retail
11 utility's compliance with this article.

12 (f) Policies for the recovery of costs incurred with respect to these
13 standards for qualifying retail utilities that are subject to rate regulation
14 by the commission. THESE POLICIES SHALL PROVIDE INCENTIVES TO
15 QUALIFYING RETAIL UTILITIES TO INVEST IN ELIGIBLE ENERGY RESOURCES
16 IN THE STATE OF COLORADO. Such policies shall include:

17 (I) ALLOWING A QUALIFYING RETAIL UTILITY TO DEVELOP AND
18 OWN AS UTILITY RATE-BASED PROPERTY UP TO TWENTY-FIVE PERCENT OF
19 THE TOTAL NEW ELIGIBLE ENERGY RESOURCES THE UTILITY ACQUIRES
20 FROM ENTERING INTO POWER PURCHASE AGREEMENTS AND FROM
21 DEVELOPING AND OWNING RESOURCES AFTER THE EFFECTIVE DATE OF THIS
22 SUBPARAGRAPH (I), IF THE NEW ELIGIBLE ENERGY RESOURCES PROPOSED
23 TO BE DEVELOPED AND OWNED BY THE UTILITY CAN BE CONSTRUCTED AT
24 REASONABLE COST. THE QUALIFYING RETAIL UTILITY SHALL BE ALLOWED
25 TO DEVELOP AND OWN AS UTILITY RATE-BASED PROPERTY MORE THAN
26 TWENTY-FIVE PERCENT BUT NOT MORE THAN FIFTY PERCENT OF TOTAL
27 NEW ELIGIBLE ENERGY RESOURCES ACQUIRED AFTER THE EFFECTIVE DATE

1 OF THIS SUBPARAGRAPH (I), IF THE QUALIFYING RETAIL UTILITY SHOWS
2 THAT ITS PROPOSAL WOULD PROVIDE SIGNIFICANT ECONOMIC
3 DEVELOPMENT, EMPLOYMENT, ENERGY SECURITY, OR OTHER BENEFITS TO
4 THE STATE OF COLORADO. THE QUALIFYING RETAIL UTILITY MAY
5 DEVELOP AND OWN THESE RESOURCES EITHER BY ITSELF OR JOINTLY WITH
6 OTHER OWNERS, AND, IF OWNED JOINTLY, THE PERCENTAGE LIMITATIONS
7 IN THIS SUBPARAGRAPH (I) SHALL APPLY ONLY TO THE JOINTLY OWNED
8 RESOURCE. FOR THE RESOURCES ADDRESSED IN THIS SUBPARAGRAPH (I),
9 THE QUALIFYING RETAIL UTILITY SHALL NOT BE REQUIRED TO COMPLY
10 WITH THE COMPETITIVE BIDDING REQUIREMENTS OF THE COMMISSION'S
11 RULES; EXCEPT THAT NOTHING IN THIS SUBPARAGRAPH (I) SHALL
12 PRECLUDE THE QUALIFYING RETAIL UTILITY FROM BIDDING TO OWN A
13 GREATER PERCENTAGE OF NEW ELIGIBLE ENERGY RESOURCES THAN
14 PERMITTED BY THIS SUBPARAGRAPH (I). IN ADDITION, NOTHING IN THIS
15 SUBPARAGRAPH (I) SHALL PREVENT THE COMMISSION FROM WAIVING,
16 REPEALING, OR REVISING ANY COMMISSION RULE IN A MANNER OTHERWISE
17 CONSISTENT WITH APPLICABLE LAW.

18 ~~(H)~~ (II) Allowing qualifying retail utilities to earn an extra profit
19 on their investment in ~~renewable~~ ELIGIBLE energy RESOURCE technologies
20 if these investments provide net economic benefits to customers as
21 determined by the commission. The allowable extra profit in any year
22 shall be the qualifying retail utility's most recent commission authorized
23 rate of return plus a bonus limited to fifty percent of the net economic
24 benefit.

25 ~~(H)~~ (III) Allowing qualifying retail utilities to earn their most
26 recent commission authorized rate of return, but no bonus, on investments
27 in ~~renewable~~ ELIGIBLE energy RESOURCE technologies if these

1 investments do not provide a net economic benefit to customers.

2 (IV) CONSIDERING, WHEN THE QUALIFYING RETAIL UTILITY
3 APPLIES FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
4 UNDER SECTION 40-5-101, RATE RECOVERY MECHANISMS THAT PROVIDE
5 FOR EARLIER AND TIMELY RECOVERY OF COSTS PRUDENTLY AND
6 REASONABLY INCURRED BY THE QUALIFYING RETAIL UTILITY IN
7 DEVELOPING, CONSTRUCTING, AND OPERATING THE ELIGIBLE ENERGY
8 RESOURCE, INCLUDING:

9 (A) RATE ADJUSTMENT CLAUSES UNTIL THE COSTS OF THE
10 ELIGIBLE ENERGY RESOURCE CAN BE INCLUDED IN THE UTILITY'S BASE
11 RATES; AND

12 (B) A CURRENT RETURN ON THE UTILITY'S CAPITAL EXPENDITURES
13 DURING CONSTRUCTION AT THE UTILITY'S WEIGHTED AVERAGE COST OF
14 CAPITAL, INCLUDING ITS MOST RECENTLY AUTHORIZED RATE OF RETURN
15 ON EQUITY, DURING THE CONSTRUCTION, STARTUP, AND OPERATION
16 PHASES OF THE ELIGIBLE ENERGY RESOURCE.

17 ~~(HH)~~ (V) If the commission approves the terms and conditions of
18 ~~a renewable~~ AN ELIGIBLE energy RESOURCE contract between the
19 qualifying retail utility and another party, the ~~renewable energy~~ contract
20 and its terms and conditions shall be deemed to be a prudent investment,
21 and the commission shall approve retail rates sufficient to recover all just
22 and reasonable costs associated with the contract. All contracts for
23 acquisition of eligible ~~renewable electricity~~ ENERGY RESOURCES shall
24 have a minimum term of twenty years; except that the contract term may
25 be shortened at the sole discretion of the seller. All contracts for the
26 acquisition of renewable energy credits from solar electric technologies
27 located on site at customer facilities shall also have a minimum term of

1 twenty years.

2 ~~(IV)~~ (VI) A requirement that qualifying retail utilities consider
3 proposals offered by third parties for the sale of renewable energy or
4 renewable energy credits. The commission may develop standard terms
5 for the submission of such proposals.

6 (g) Retail rate impact rule:

7 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV) OF
8 THIS PARAGRAPH (g), for each qualifying utility, the commission shall
9 establish a maximum retail rate impact for this section of ~~one~~ TWO
10 percent of the total electric bill annually for each customer. The retail
11 rate impact shall be determined net of new ~~nonrenewable~~ alternative
12 sources of electricity supply FROM NONELIGIBLE ENERGY RESOURCES
13 THAT ARE reasonably available at the time of the determination. IF THE
14 RETAIL RATE IMPACT DOES NOT EXCEED THE MAXIMUM IMPACT PERMITTED
15 BY THIS PARAGRAPH (g), THE QUALIFYING UTILITY MAY ACQUIRE MORE
16 THAN THE MINIMUM AMOUNT OF ELIGIBLE ENERGY RESOURCES AND
17 RENEWABLE ENERGY CREDITS REQUIRED BY THIS SECTION.

18 (II) If a wholesale customer agrees to pay the full costs associated
19 with the acquisition of ~~renewable~~ ELIGIBLE ENERGY resources and
20 associated renewable energy credits by its wholesale provider BY
21 ENTERING INTO A CONTRACT WITH THE WHOLESALER PROVIDER EVIDENCING
22 THE AGREEMENT WITHIN SIXTY DAYS AFTER THE WHOLESALER PROVIDER
23 EXTENDS THE OFFER, the wholesale customer shall be entitled to receive
24 the appropriate credit toward the renewable energy standard as well as
25 any associated renewable energy credits. To the extent that the full costs
26 are not recovered from wholesale customers, a qualifying retail utility
27 shall be entitled to recover those costs from retail customers.

1 (III) SUBJECT TO THE MAXIMUM RETAIL RATE IMPACT PERMITTED
2 BY THIS PARAGRAPH (g), THE QUALIFYING RETAIL UTILITY SHALL HAVE
3 THE DISCRETION TO DETERMINE, IN A NONDISCRIMINATORY MANNER, THE
4 PRICE IT WILL PAY FOR RENEWABLE ENERGY CREDITS FROM ON-SITE
5 CUSTOMER FACILITIES THAT ARE NO LARGER THAN ONE HUNDRED
6 KILOWATTS.

7 (IV) FOR COOPERATIVE ELECTRIC ASSOCIATIONS, THE MAXIMUM
8 RETAIL RATE IMPACT FOR THIS SECTION IS ONE PERCENT OF THE TOTAL
9 ELECTRIC BILL ANNUALLY FOR EACH CUSTOMER.

10 (h) **Annual reports.** Each qualifying retail utility shall submit to
11 the commission an annual report that provides information relating to the
12 actions taken to comply with this article including the costs and benefits
13 of expenditures for renewable energy. The report shall be within the time
14 prescribed and in a format approved by the commission.

15 (i) Rules necessary for the administration of this article including
16 enforcement mechanisms necessary to ensure that each qualifying retail
17 utility complies with this standard, and provisions governing the
18 imposition of administrative penalties assessed after a hearing held by the
19 commission pursuant to section 40-6-109. The commission shall exempt
20 a qualifying retail utility from administrative penalties for an individual
21 compliance year if the utility demonstrates that the retail rate impact cap
22 described in paragraph (g) of this subsection (1) has been reached and the
23 utility has not achieved full compliance with paragraph (c) of this
24 subsection (1). Under no circumstances shall the costs of administrative
25 penalties be recovered from Colorado retail customers.

26 (2) ~~The commission shall establish all rules called for in~~
27 ~~paragraphs (a) to (g) of subsection (1) of this section by March 31, 2006.~~

1 (3) Each municipally owned electric utility ~~and each cooperative~~
2 ~~electric association that has voted to exempt itself from commission~~
3 ~~jurisdiction but~~ THAT IS NOT a qualifying retail utility shall implement a
4 renewable energy standard substantially similar to this section. The
5 municipally owned utility ~~or cooperative electric association~~ shall submit
6 a statement to the commission that demonstrates such municipal utility ~~or~~
7 ~~cooperative electric association~~ has a substantially similar renewable
8 energy standard. The statement submitted by the municipally owned
9 utility ~~or cooperative electric association~~ is for informational purposes
10 and is not subject to approval by the commission. Upon filing of the
11 certification statement, the municipally owned utility ~~or cooperative~~
12 ~~electric association~~ shall have no further obligations under subsection (1)
13 of this section. The renewable energy standard of a municipally owned
14 utility ~~or cooperative electric association~~ shall, at a minimum, meet the
15 following criteria:

16 (a) The eligible ~~renewable~~ energy resources ~~must~~ SHALL be
17 limited to those identified in paragraph (a) of subsection (1) of this
18 section;

19 (b) The percentage requirements ~~must~~ SHALL be equal to or
20 greater in the same years than those identified in subparagraph ~~(H)~~ (V) of
21 paragraph (c) of subsection (1) of this section, counted in the manner
22 allowed by ~~subparagraph (H)~~ of said paragraph (c); and

23 (c) The utility must have an optional pricing program in effect that
24 allows retail customers the option to support through utility rates
25 emerging renewable energy technologies.

26 (4) For municipal utilities ~~and cooperative electric associations~~
27 that become qualifying retail utilities after December 31, 2006, the

1 percentage requirements identified in subparagraph ~~(F)~~ (V) of paragraph
2 (c) of subsection (1) of this section shall begin in the first calendar year
3 following qualification as follows:

4 (a) Years one through ~~four~~: three: ONE percent of retail electricity
5 sales;

6 (b) Years ~~five~~ FOUR through ~~eight~~: ~~Six~~ SEVEN: THREE percent of
7 retail electricity sales; and

8 (c) ~~Year nine and thereafter~~: ~~Ten~~ YEARS EIGHT THROUGH
9 TWELVE: SIX percent of retail electricity sales; AND

10 (d) YEARS THIRTEEN AND THEREAFTER: TEN PERCENT OF RETAIL
11 ELECTRICITY SALES.

12 (5) **Procedure for exemption and inclusion - election.** (a) ~~The~~
13 ~~board of directors of each qualifying retail utility subject to this section~~
14 ~~may, at its option, submit the question of its exemption from this section~~
15 ~~to its consumers on a one meter equals one vote basis. Approval by a~~
16 ~~majority of those voting in the election shall be required for such~~
17 ~~exemption, providing that a minimum of twenty-five percent of eligible~~
18 ~~consumers participates in the election.~~

19 (b) The board of directors of each municipally owned electric
20 utility ~~or cooperative electric association~~ not subject to this section may,
21 at its option, submit the question of its inclusion in this section to its
22 consumers on a one meter equals one vote basis. Approval by a majority
23 of those voting in the election shall be required for such inclusion,
24 providing that a minimum of twenty-five percent of eligible consumers
25 participates in the election.

26 (5.5) EACH COOPERATIVE ELECTRIC ASSOCIATION THAT IS A
27 QUALIFYING RETAIL UTILITY SHALL SUBMIT AN ANNUAL COMPLIANCE

1 REPORT TO THE COMMISSION NO LATER THAN JUNE 1 OF EACH YEAR IN
2 WHICH THE COOPERATIVE ELECTRIC ASSOCIATION IS SUBJECT TO THE
3 RENEWABLE ENERGY STANDARD REQUIREMENTS ESTABLISHED IN THIS
4 SECTION. THE ANNUAL COMPLIANCE REPORT SHALL DESCRIBE THE STEPS
5 TAKEN BY THE COOPERATIVE ELECTRIC ASSOCIATION TO COMPLY WITH
6 THE RENEWABLE ENERGY STANDARDS AND SHALL INCLUDE THE SAME
7 INFORMATION SET FORTH IN THE RULES OF THE COMMISSION FOR
8 JURISDICTIONAL UTILITIES. COOPERATIVE ELECTRIC ASSOCIATIONS SHALL
9 NOT BE SUBJECT TO ANY PART OF THE COMPLIANCE REPORT REVIEW
10 PROCESS AS PROVIDED IN THE RULES FOR JURISDICTIONAL UTILITIES.
11 COOPERATIVE ELECTRIC ASSOCIATIONS SHALL NOT BE REQUIRED TO
12 OBTAIN COMMISSION APPROVAL OF ANNUAL COMPLIANCE REPORTS, AND
13 NO ADDITIONAL REGULATORY AUTHORITY OF THE COMMISSION OTHER
14 THAN THAT SPECIFICALLY CONTAINED IN THIS SUBSECTION (5.5) IS
15 CREATED OR IMPLIED BY THIS SUBSECTION (5.5).

16 (6) ~~Section 3 of this initiated measure provides that this section~~
17 ~~and section 40-2-125 shall be effective December 1, 2004.~~

18 **SECTION 2.** Article 2 of title 40, Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW SECTION to read:

20 **40-2-126. Community energy funds.** THE GENERAL ASSEMBLY
21 HEREBY FINDS AND DECLARES THAT LOCAL COMMUNITIES CAN BENEFIT
22 FROM THE FURTHER DEVELOPMENT OF RENEWABLE ENERGY, ENERGY
23 EFFICIENCY, CONSERVATION, AND ENVIRONMENTAL IMPROVEMENT
24 PROJECTS, AND THE GENERAL ASSEMBLY HEREBY ENCOURAGES ELECTRIC
25 UTILITIES TO ESTABLISH COMMUNITY ENERGY FUNDS FOR THE
26 DEVELOPMENT OF SUCH PROJECTS.

27 **SECTION 3. Safety clause.** The general assembly hereby finds,

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