

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 10-0746.01 Duane Gall

HOUSE BILL 10-1342

HOUSE SPONSORSHIP

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House Committees

Transportation & Energy

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Local Government and Energy

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ENCOURAGE ADDITIONAL INVESTMENT IN**
102 **SOLAR ENERGY GENERATION FACILITIES, AND, IN CONNECTION**
103 **THEREWITH, AUTHORIZING THE CREATION OF COMMUNITY**
104 **SOLAR GARDENS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Existing law directs the Colorado public utilities commission (PUC) to adopt rules implementing the renewable energy portfolio

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.

SENATE
Am ended 2nd Reading
April 26, 2010

HOUSE
3rd Reading Unam ended
March 25, 2010

HOUSE
Am ended 2nd Reading
March 23, 2010

standards (RPS) for electric utilities, under which increasing amounts of electricity must be generated from renewable sources. The current rules provide for standard rebates for the cost of installation and renewable energy credits (RECs) to promote customer-sited solar generation facilities.

The bill directs the PUC to adopt new rules under which standard offers can apply to solar generation facilities that are beneficially owned by 10 or more customers at a shared location, called a "community solar garden". This will help customers participate in solar generation even though solar facilities on their own properties may not be feasible due to cost, the physical characteristics of their sites, their status as renters, or other factors.

Section 1 of the bill amends an existing legislative declaration to state that it is in the public interest to allow renters and low-income utility customers to own interests in solar generation facilities, to make interests in solar generation facilities portable and transferable, and to leverage Colorado's solar generating capacity through economies of scale. Section 1 also:

- ! Defines a solar community garden as an on-site eligible solar electric generation facility with a nameplate rating of 2 megawatts or less and in which subscriptions are owned by 10 or more customers of a qualifying retail utility;
- ! Limits the size of a subscription to 120% of the average annual electric consumption of each subscriber at the premises to which the subscription is attributed;
- ! Allows the creation of a community solar garden owned by a subscriber organization, subject to rules adopted by the PUC by October 1, 2010;
- ! Specifies that, in their first 2 compliance plan years after the effective date of the bill, qualifying retail utilities must purchase the greater of 3 megawatts, or half their total purchases of electricity from community solar gardens, from gardens that are sized at 500 kilowatts or smaller;
- ! Exempts community solar gardens from the definition of a utility; and
- ! Specifies that section 1 does not apply to cooperative electric associations or municipally owned utilities.

Section 2 makes conforming amendments to the existing RPS statute (a/k/a "Amendment 37").

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

2 **SECTION 1.** 40-2-127, Colorado Revised Statutes, is amended

1 to read:

2 **40-2-127. Community energy funds - community solar**
3 **gardens - definitions - rules - legislative declaration - repeal.**

4 (1) **Legislative declaration.** The general assembly hereby finds and
5 declares that:

6 (a) Local communities can benefit from the further development
7 of renewable energy, energy efficiency, conservation, and environmental
8 improvement projects, and the general assembly hereby encourages
9 electric utilities to establish community energy funds for the development
10 of such projects;

11 (b) IT IS IN THE PUBLIC INTEREST THAT BROADER PARTICIPATION
12 IN SOLAR ELECTRIC GENERATION BY COLORADO RESIDENTS AND
13 COMMERCIAL ENTITIES BE ENCOURAGED BY THE DEVELOPMENT AND
14 DEPLOYMENT OF DISTRIBUTED SOLAR ELECTRIC GENERATING FACILITIES
15 KNOWN AS COMMUNITY SOLAR GARDENS, IN ORDER TO:

16 (I) PROVIDE COLORADO RESIDENTS AND COMMERCIAL ENTITIES
17 WITH THE OPPORTUNITY TO PARTICIPATE IN SOLAR GENERATION IN
18 ADDITION TO THE OPPORTUNITIES AVAILABLE FOR ROOFTOP SOLAR
19 GENERATION ON HOMES AND BUSINESSES;

20 (II) ALLOW RENTERS, LOW-INCOME UTILITY CUSTOMERS, AND
21 AGRICULTURAL PRODUCERS TO OWN INTERESTS IN SOLAR GENERATION
22 FACILITIES;

23 (III) ALLOW INTERESTS IN SOLAR GENERATION FACILITIES TO BE
24 PORTABLE AND TRANSFERRABLE; AND

25 (IV) LEVERAGE COLORADO'S SOLAR GENERATING CAPACITY
26 THROUGH ECONOMIES OF SCALE.

27 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (a) THE DEFINITIONS IN SECTION 40-2-124 APPLY; AND

3 (b) IN ADDITION:

4 (I) (A) "COMMUNITY SOLAR GARDEN" MEANS A SOLAR ELECTRIC
5 GENERATION FACILITY WITH A NAMEPLATE RATING OF TWO MEGAWATTS
6 OR LESS THAT IS LOCATED IN OR NEAR A COMMUNITY SERVED BY A
7 QUALIFYING RETAIL UTILITY WHERE THE BENEFICIAL USE OF THE
8 ELECTRICITY GENERATED BY THE FACILITY BELONGS TO THE SUBSCRIBERS
9 TO THE COMMUNITY SOLAR GARDEN. THERE SHALL BE AT LEAST TEN
10 SUBSCRIBERS. THE OWNER OF THE COMMUNITY SOLAR GARDEN MAY BE
11 THE QUALIFYING RETAIL UTILITY OR ANY OTHER FOR-PROFIT OR
12 NONPROFIT ENTITY OR ORGANIZATION, INCLUDING A SUBSCRIBER
13 ORGANIZATION ORGANIZED UNDER THIS SECTION, THAT CONTRACTS TO
14 SELL THE OUTPUT FROM THE COMMUNITY SOLAR GARDEN TO THE
15 QUALIFYING RETAIL UTILITY. A COMMUNITY SOLAR GARDEN SHALL BE
16 DEEMED TO BE "LOCATED ON THE SITE OF CUSTOMER FACILITIES".

17 (B) A COMMUNITY SOLAR GARDEN SHALL CONSTITUTE "RETAIL
18 DISTRIBUTED GENERATION" WITHIN THE MEANING OF SECTION 40-2-124,
19 AS AMENDED BY HOUSE BILL 10-1001, ENACTED IN 2010.

20 (II) "SUBSCRIBER" MEANS A RETAIL CUSTOMER OF A QUALIFYING
21 RETAIL UTILITY WHO OWNS A SUBSCRIPTION AND WHO HAS IDENTIFIED ONE
22 OR MORE PHYSICAL LOCATIONS TO WHICH THE SUBSCRIPTION SHALL BE
23 ATTRIBUTED. SUCH PHYSICAL LOCATIONS SHALL BE WITHIN EITHER THE
24 SAME MUNICIPALITY OR THE SAME COUNTY AS THE COMMUNITY SOLAR
25 GARDEN; EXCEPT THAT, IF THE SUBSCRIBER LIVES IN A COUNTY WITH A
26 POPULATION OF LESS THAN TWENTY THOUSAND, ACCORDING TO THE MOST
27 RECENT AVAILABLE CENSUS FIGURES, SUCH PHYSICAL LOCATIONS MAY BE

1 IN ANOTHER COUNTY, ALSO WITH A POPULATION OF LESS THAN TWENTY
2 THOUSAND, WITHIN THE SERVICE TERRITORY OF THE SAME QUALIFYING
3 RETAIL UTILITY AND ALSO ADJACENT TO THAT OF THE COMMUNITY SOLAR
4 GARDEN. THE SUBSCRIBER MAY CHANGE FROM TIME TO TIME THE
5 PREMISES TO WHICH THE COMMUNITY SOLAR GARDEN ELECTRICITY
6 GENERATION SHALL BE ATTRIBUTED, SO LONG AS THE PREMISES ARE
7 WITHIN THE GEOGRAPHICAL LIMITS ALLOWED FOR A SUBSCRIBER.

8 (III) "SUBSCRIPTION" MEANS A PROPORTIONAL INTEREST IN SOLAR
9 ELECTRIC GENERATION FACILITIES INSTALLED AT A COMMUNITY SOLAR
10 GARDEN, TOGETHER WITH THE RENEWABLE ENERGY CREDITS ASSOCIATED
11 WITH OR ATTRIBUTABLE TO SUCH FACILITIES UNDER SECTION 40-2-124.
12 EACH SUBSCRIPTION SHALL BE SIZED TO REPRESENT AT LEAST ONE
13 KILOWATT OF THE COMMUNITY SOLAR GARDEN'S GENERATING CAPACITY
14 AND TO SUPPLY NO MORE THAN ONE HUNDRED TWENTY PERCENT OF THE
15 AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY BY EACH SUBSCRIBER
16 AT THE PREMISES TO WHICH THE SUBSCRIPTION IS ATTRIBUTED, WITH A
17 DEDUCTION FOR THE AMOUNT OF ANY EXISTING SOLAR FACILITIES AT SUCH
18 PREMISES. SUBSCRIPTIONS IN A COMMUNITY SOLAR GARDEN MAY BE
19 TRANSFERRED OR ASSIGNED TO A SUBSCRIBER ORGANIZATION OR TO ANY
20 PERSON OR ENTITY WHO QUALIFIES TO BE A SUBSCRIBER UNDER THIS
21 SECTION.

22 (3) **Subscriber organization - subscriber qualifications -**
23 **transferability of subscriptions.** (a) THE COMMUNITY SOLAR GARDEN
24 MAY BE OWNED BY A SUBSCRIBER ORGANIZATION, WHOSE SOLE PURPOSE
25 SHALL BE BENEFICIALLY OWNING AND OPERATING A COMMUNITY SOLAR
26 GARDEN. THE SUBSCRIBER ORGANIZATION MAY BE ANY FOR-PROFIT OR
27 NONPROFIT ENTITY PERMITTED BY COLORADO LAW. THE COMMUNITY

1 SOLAR GARDEN MAY ALSO BE BUILT, OWNED, AND OPERATED BY A THIRD
2 PARTY UNDER CONTRACT WITH THE SUBSCRIBER ORGANIZATION.

3 (b) ON OR BEFORE OCTOBER 1, 2010, THE COMMISSION SHALL
4 ~~COMMENCE A RULE-MAKING PROCEEDING TO~~ ADOPT RULES AS NECESSARY
5 TO IMPLEMENT THIS SECTION, INCLUDING BUT NOT LIMITED TO RULES TO
6 FACILITATE THE FINANCING OF SUBSCRIBER-OWNED COMMUNITY SOLAR
7 GARDENS. SUCH RULES SHALL INCLUDE:

8 (I) MINIMUM CAPITALIZATION;

9 (II) THE SHARE OF A COMMUNITY SOLAR GARDEN'S ELIGIBLE
10 SOLAR ELECTRIC GENERATION FACILITIES THAT A SUBSCRIBER
11 ORGANIZATION MAY AT ANY TIME OWN IN ITS OWN NAME; AND

12 (III) AUTHORIZING SUBSCRIBER ORGANIZATIONS TO ENTER INTO
13 LEASES, SALE-AND-LEASEBACK TRANSACTIONS, OPERATING AGREEMENTS,
14 AND OTHER OWNERSHIP ARRANGEMENTS WITH THIRD PARTIES.

15 (c) IF A SUBSCRIBER CEASES TO BE A CUSTOMER AT THE PREMISES
16 ON WHICH THE SUBSCRIPTION IS BASED BUT, WITHIN A REASONABLE
17 PERIOD AS DETERMINED BY THE COMMISSION, BECOMES A CUSTOMER AT
18 ANOTHER PREMISES IN THE SERVICE TERRITORY OF THE QUALIFYING
19 RETAIL UTILITY AND WITHIN THE GEOGRAPHIC AREA SERVED BY THE
20 COMMUNITY SOLAR GARDEN, THE SUBSCRIPTION SHALL CONTINUE IN
21 EFFECT BUT THE BILL CREDIT AND OTHER FEATURES OF THE SUBSCRIPTION
22 SHALL BE ADJUSTED AS NECESSARY TO REFLECT ANY DIFFERENCES
23 BETWEEN THE NEW AND PREVIOUS PREMISES' CUSTOMER CLASSIFICATION
24 AND AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY.

25 (4) **Community solar gardens not subject to regulation.**
26 NEITHER THE OWNERS OF NOR THE SUBSCRIBERS TO A COMMUNITY SOLAR
27 GARDEN SHALL BE CONSIDERED PUBLIC UTILITIES SUBJECT TO REGULATION

1 BY THE COMMISSION SOLELY AS A RESULT OF THEIR INTEREST IN THE
2 COMMUNITY SOLAR GARDEN. PRICES PAID FOR SUBSCRIPTIONS IN
3 COMMUNITY SOLAR GARDENS SHALL NOT BE SUBJECT TO REGULATION BY
4 THE COMMISSION.

5 (5) **Purchases of the output from community solar gardens.**

6 (a) (I) EACH QUALIFYING RETAIL UTILITY SHALL SET FORTH IN ITS [REDACTED]
7 [REDACTED] PLAN FOR ACQUISITION OF RENEWABLE RESOURCES A PLAN TO
8 PURCHASE THE ELECTRICITY AND RENEWABLE ENERGY CREDITS
9 GENERATED FROM ONE OR MORE COMMUNITY SOLAR GARDENS OVER THE
10 PERIOD COVERED BY THE PLAN.

11 (II) FOR THE FIRST THREE COMPLIANCE [REDACTED] YEARS COMMENCING
12 WITH THE 2011 COMPLIANCE [REDACTED] YEAR, EACH QUALIFYING RETAIL
13 UTILITY SHALL ISSUE ONE OR MORE STANDARD OFFERS TO PURCHASE THE
14 OUTPUT FROM COMMUNITY SOLAR GARDENS OF FIVE HUNDRED KILOWATTS
15 OR LESS [REDACTED] AT PRICES THAT ARE COMPARABLE TO THE PRICES OFFERED
16 BY THE QUALIFYING RETAIL UTILITY UNDER STANDARD OFFERS ISSUED FOR
17 ON-SITE SOLAR GENERATION. DURING THESE THREE COMPLIANCE YEARS,
18 THE QUALIFYING RETAIL UTILITY SHALL ACQUIRE, THROUGH THESE
19 STANDARD OFFERS, ONE-HALF OF THE SOLAR GARDEN GENERATION IT
20 PLANS TO ACQUIRE, [REDACTED] TO THE EXTENT THE QUALIFYING RETAIL UTILITY
21 RECEIVES RESPONSES TO ITS STANDARD OFFERS. [REDACTED] NOTWITHSTANDING
22 ANY PROVISION OF THIS SUBPARAGRAPH (II) TO THE CONTRARY,
23 RENEWABLE ENERGY CREDITS GENERATED FROM SOLAR GARDENS SHALL
24 NOT BE USED TO ACHIEVE MORE THAN TWENTY PERCENT OF THE RETAIL
25 DISTRIBUTED GENERATION STANDARD IN YEARS 2011 THROUGH 2013.

26 (III) FOR THE FIRST THREE COMPLIANCE YEARS COMMENCING WITH
27 THE 2011 COMPLIANCE YEAR, A QUALIFYING RETAIL UTILITY SHALL NOT

1 BE OBLIGATED TO PURCHASE THE OUTPUT FROM MORE THAN SIX
2 MEGAWATTS OF NEWLY INSTALLED COMMUNITY SOLAR GARDEN
3 GENERATION.

4 (IV) FOR EACH QUALIFYING RETAIL UTILITY'S COMPLIANCE [REDACTED]
5 YEARS COMMENCING IN 2014 AND THEREAFTER, THE COMMISSION SHALL
6 DETERMINE THE MINIMUM AND MAXIMUM [REDACTED] PURCHASES OF
7 ELECTRICAL OUTPUT FROM NEWLY INSTALLED COMMUNITY SOLAR
8 GARDENS OF DIFFERENT OUTPUT CAPACITY THAT THE QUALIFYING RETAIL
9 UTILITY SHALL PLAN TO ACQUIRE, WITHOUT REGARD TO THE
10 SIX-MEGAWATT CEILING OF THE FIRST THREE COMPLIANCE YEARS. IN
11 ADDITION, AS NECESSARY, THE COMMISSION SHALL FORMULATE AND
12 IMPLEMENT POLICIES CONSISTENT WITH THIS SECTION THAT
13 SIMULTANEOUSLY ENCOURAGE:

14 (A) THE OWNERSHIP BY CUSTOMERS OF SUBSCRIPTIONS IN
15 COMMUNITY SOLAR GARDENS AND OF OTHER FORMS OF DISTRIBUTED
16 GENERATION, TO THE EXTENT THE COMMISSION FINDS THERE TO BE
17 CUSTOMER DEMAND FOR SUCH OWNERSHIP;

18 (B) OWNERSHIP IN COMMUNITY SOLAR GARDENS BY RESIDENTIAL
19 RETAIL CUSTOMERS, AND AGRICULTURAL PRODUCERS, INCLUDING
20 LOW-INCOME CUSTOMERS, TO THE EXTENT THE COMMISSION FINDS THERE
21 TO BE DEMAND FOR SUCH OWNERSHIP;

22 (C) THE DEVELOPMENT OF COMMUNITY SOLAR GARDENS WITH
23 ATTRIBUTES THAT THE COMMISSION FINDS RESULT IN LOWER OVERALL
24 TOTAL COSTS FOR THE QUALIFYING RETAIL UTILITY'S CUSTOMERS;

25 (D) SUCCESSFUL FINANCING AND OPERATION OF COMMUNITY
26 SOLAR GARDENS OWNED BY SUBSCRIBER ORGANIZATIONS; AND

27 (E) THE ACHIEVEMENT OF THE GOALS AND OBJECTIVES OF SECTION

1 40-2-124.

2 (b) (I) THE OUTPUT FROM A COMMUNITY SOLAR GARDEN SHALL BE
3 SOLD ONLY TO THE QUALIFYING RETAIL UTILITY SERVING THE GEOGRAPHIC
4 AREA WHERE THE COMMUNITY SOLAR GARDEN IS LOCATED. ONCE A
5 COMMUNITY SOLAR GARDEN IS PART OF A QUALIFYING RETAIL UTILITY'S
6 PLAN FOR ACQUISITION OF RENEWABLE RESOURCES, AS APPROVED BY
7 THE COMMISSION, THE QUALIFYING RETAIL UTILITY SHALL PURCHASE ALL
8 OF THE ELECTRICITY AND RENEWABLE ENERGY CREDITS GENERATED BY
9 THE COMMUNITY SOLAR GARDEN. THE AMOUNT OF ELECTRICITY AND
10 RENEWABLE ENERGY CREDITS GENERATED BY EACH COMMUNITY SOLAR
11 GARDEN SHALL BE DETERMINED BY A PRODUCTION METER INSTALLED BY
12 THE QUALIFYING RETAIL UTILITY OR THIRD-PARTY SYSTEM OWNER AND
13 PAID FOR BY THE OWNER OF THE COMMUNITY SOLAR GARDEN.

14 (II) THE PURCHASE OF THE OUTPUT OF A COMMUNITY SOLAR
15 GARDEN BY A QUALIFYING RETAIL UTILITY SHALL TAKE THE FORM OF A
16 NET METERING CREDIT AGAINST THE QUALIFYING RETAIL UTILITY'S
17 ELECTRIC BILL TO EACH COMMUNITY SOLAR GARDEN SUBSCRIBER AT THE
18 PREMISES SET FORTH IN THE SUBSCRIBER'S SUBSCRIPTION. THE NET
19 METERING CREDIT SHALL BE CALCULATED BY MULTIPLYING THE
20 SUBSCRIBER'S SHARE OF THE ELECTRICITY PRODUCTION FROM THE
21 COMMUNITY SOLAR GARDEN BY THE QUALIFYING RETAIL UTILITY'S TOTAL
22 AGGREGATE RETAIL RATE AS CHARGED TO THE SUBSCRIBER, MINUS A
23 REASONABLE CHARGE AS DETERMINED BY THE COMMISSION TO COVER THE
24 UTILITY'S COSTS OF DELIVERING TO THE SUBSCRIBER'S PREMISES THE
25 ELECTRICITY GENERATED BY THE COMMUNITY SOLAR GARDEN,
26 INTEGRATING THE SOLAR GENERATION WITH THE UTILITY'S SYSTEM, AND
27 ADMINISTERING THE COMMUNITY SOLAR GARDEN'S CONTRACTS AND NET

1 METERING CREDITS. THE COMMISSION SHALL ENSURE THAT THIS CHARGE
2 DOES NOT REFLECT COSTS THAT ARE ALREADY RECOVERED BY THE
3 UTILITY FROM THE SUBSCRIBER THROUGH OTHER CHARGES. IF, AND TO
4 THE EXTENT THAT, A SUBSCRIBER'S NET METERING CREDIT EXCEEDS THE
5 _____ SUBSCRIBER'S ELECTRIC BILL IN ANY BILLING PERIOD, THE NET
6 METERING CREDIT SHALL BE CARRIED FORWARD AND APPLIED AGAINST
7 FUTURE BILLS. THE QUALIFYING RETAIL UTILITY AND THE OWNER OF THE
8 COMMUNITY SOLAR GARDEN SHALL AGREE ON WHETHER THE PURCHASE
9 OF THE RENEWABLE ENERGY CREDITS FROM SUBSCRIBERS WILL BE
10 ACCOMPLISHED THROUGH A CREDIT ON EACH SUBSCRIBER'S ELECTRICITY
11 BILL OR BY A PAYMENT TO THE OWNER OF THE COMMUNITY SOLAR
12 GARDEN.

13 (c) THE OWNER OF THE COMMUNITY SOLAR GARDEN SHALL
14 PROVIDE REAL-TIME PRODUCTION DATA TO THE QUALIFYING RETAIL
15 UTILITY TO FACILITATE INCORPORATION OF THE COMMUNITY SOLAR
16 GARDEN INTO THE UTILITY'S OPERATION OF ITS ELECTRIC SYSTEM AND TO
17 FACILITATE THE PROVISION OF NET METERING CREDITS.

18 (d) THE OWNER OF THE COMMUNITY SOLAR GARDEN SHALL BE
19 RESPONSIBLE FOR PROVIDING TO THE QUALIFYING RETAIL UTILITY, ON A
20 MONTHLY BASIS AND WITHIN REASONABLE PERIODS SET BY THE
21 QUALIFYING RETAIL UTILITY, THE PERCENTAGE SHARES THAT SHOULD BE
22 USED TO DETERMINE THE NET METERING CREDIT TO EACH SUBSCRIBER. IF
23 THE ELECTRICITY OUTPUT OF THE COMMUNITY SOLAR GARDEN IS NOT
24 FULLY SUBSCRIBED, THE QUALIFYING RETAIL UTILITY SHALL PURCHASE
25 THE UNSUBSCRIBED RENEWABLE ENERGY AND THE RENEWABLE ENERGY
26 CREDITS AT A RATE EQUAL TO THE QUALIFYING RETAIL UTILITY'S AVERAGE
27 HOURLY INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE

1 IMMEDIATELY PRECEDING CALENDAR YEAR.

2 (e) EACH QUALIFYING RETAIL UTILITY SHALL SET FORTH IN ITS
3 PLAN FOR ACQUISITION OF RENEWABLE RESOURCES A PROPOSAL FOR
4 INCLUDING LOW-INCOME CUSTOMERS AS SUBSCRIBERS TO A COMMUNITY
5 SOLAR GARDEN. THE UTILITY MAY GIVE PREFERENCE TO COMMUNITY
6 SOLAR GARDENS THAT HAVE LOW-INCOME SUBSCRIBERS.

7 (f) QUALIFYING RETAIL UTILITIES SHALL BE ELIGIBLE FOR THE
8 INCENTIVES AND SUBJECT TO THE OWNERSHIP LIMITATIONS SET FORTH IN
9 SECTION 40-2-124 (1) (f) FOR UTILITY INVESTMENTS IN COMMUNITY
10 SOLAR GARDENS AND MAY RECOVER THROUGH RATES A MARGIN, IN AN
11 AMOUNT DETERMINED BY THE COMMISSION, ON ALL ENERGY AND
12 RENEWABLE ENERGY CREDITS PURCHASED FROM COMMUNITY SOLAR
13 GARDENS. SUCH INCENTIVE PAYMENTS SHALL BE EXCLUDED FROM THE
14 COST ANALYSIS REQUIRED BY SECTION 40-2-124 (1) (g).

15 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO WAIVE OR
16 SUPERSEDE THE RETAIL RATE IMPACT LIMITATIONS IN SECTION 40-2-124
17 (1) (g). UTILITY EXPENDITURES FOR UNSUBSCRIBED ENERGY AND
18 RENEWABLE ENERGY CREDITS GENERATED BY COMMUNITY SOLAR
19 GARDENS SHALL BE INCLUDED IN THE CALCULATIONS OF RETAIL RATE
20 IMPACT REQUIRED BY THAT SECTION.

21 (7) **Applicability to cooperative electric associations and**
22 **municipally owned utilities.** THIS SECTION SHALL NOT APPLY TO
23 COOPERATIVE ELECTRIC ASSOCIATIONS OR TO MUNICIPALLY OWNED
24 UTILITIES.

25 **SECTION 2. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.