SB11-071

Colorado Legislative Council Staff Fiscal Note

STATE
FISCAL IMPACT

Drafting Number:	LLS 11-0414	**Date:**	January 27, 2011
Prime Sponsor(s):	Sen. Mitchell	**Bill Status:**	Senate SVMA
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING MEASURES TO REDUCE ENERGY COSTS FOR COLORADO CONSUMERS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures		
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: August 11, 2011, assuming the General Assembly adjourns May 12, 2011, as scheduled and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill makes several modifications to the statute governing electric utilities in Colorado. First, the bill repeals and reenacts Section ***40-2-123, C.R.S.,*** which currently specifies additional criteria that the Colorado Public Utilities Commission (PUC) is to consider when evaluating utility proposals to acquire energy generation resources. Currently, the PUC is authorized to consider:

- the likelihood of new environmental regulation and the risk of higher future costs associated with greenhouse gas emissions;
- proposals by Colorado electric utilities to propose, fund, and construct integrated gasification combined cycle (IGCC) generation facilities;
- whether acquisition of utility-scale solar resources would benefit the public;
- implementation of new electricity generation technologies using geothermal energy, and the combustion of material derived from wastewater treatment, municipal solid waste or produced biogenically in geologic strata; and
- projects funded by the federal American Recovery and Reinvestment Act of 2009.

This bill repeals all of the above authorizations and requires only that the PUC consider the cost-effective implementation of new clean energy and energy-efficient technologies. The bill also eliminates the Governor's Energy Office's responsibility to provide assistance to public utilities for IGCC projects.

Second, current law includes a renewable portfolio standard (RPS) under which investor-owned utilities (IOUs) and certain other utilities are required to generate an increasing percentage of their electricity from specified renewable resources. This bill repeals the existing standard and restores the standard originally approved by voters in the 2004 election under Amendment 37. Additionally, the bill specifies that only utilities serving more than 40,000 customers are subject to the RPS. The bill leaves intact the current retail rate impact rule of 2 percent for renewable energy acquisition, up from the 1 percent rule approved by voters in Amendment 37.

Finally, current law permits a utility that produces, generates, transmits, or furnishes heat, light, gas, water, power, or telephone service to establish a graduated scale of charges for the service. This bill prohibits all graduated scales for service charges.

Background

Since the passage of Amendment 37, the General Assembly has passed several pieces of legislation related to clean energy development in Colorado. To provide context for this legislation, the following describes two sections of statute that relate to the provisions of SB11-071, and discusses 8 bills that have been enacted to amend these sections.

New Energy Technologies (40-2-123, C.R.S.). This section of statute requires the PUC to consider the cost-effective implementation of clean energy and energy-efficiency technologies in its consideration of generation acquisitions for electric utilities, bearing in mind factors such as energy security, economic prosperity, environmental protection and insulation from fuel price increases. ***HB06-1281*** amended this section to require the PUC to consider the development of IGCC electric generation facilities upon a showing of feasibility, environmental benefits and cost-effectiveness. ***HB08-1164*** further amended this section to allow the PUC to consider the likelihood of future regulation and the risk of higher future costs associated with greenhouse gas emissions. The bill also allowed the PUC to consider whether acquisition of utility-scale solar resources is in the public interest, given 5 specific attributes of such generation. ***SB09-297*** directed the PUC to consider projects eligible for funding through the American Recovery and Reinvestment Act of 2009. ***HB10-1349*** directed the PUC to consider projects developed under the Re-energize Colorado Program, focusing on job creation and local economic growth. Other bills authorized the PUC to consider geothermal energy generation technologies (***SB10-174***) and methane produced biogenically from geologic strata (***SB10-177***).

Renewable Energy Standard (40-2-124, C.R.S.). This section of statute was established by Amendment 37 and created the original RPS for Colorado. ***HB 07-1281*** expanded the RPS to apply to Cooperative Electric Associations (CEAs) and Municipally-Owned Utilities (MOUs) with more than 40,000 customers. The bill raised the standard for electricity generation from renewable resources for IOUs and established a standard for CEAs and MOUs. The bill established bonuses for certain types of generation facilities, and raised the allowable retail rate impact from 1 to 2 percent of the customer's total annual electric bill. CEA's were required to submit RPS compliance reports similar to those of IOUs, but these reports are not subject to the same review process. ***H10-1001*** further raised the standard for IOUs but left intact standard for CEAs and MOUs.

State Expenditures

No expenditure increase is expected as a result of this bill.

Department of Regulatory Agencies, Public Utilities Commission. Under this bill, the PUC will need to promulgate least-cost resource acquisition rules, rules to return the RPS standard to the level originally contained in Amendment 37, and rules to prohibit graduated service charges. Rule promulgation is one of the primary responsibilities of PUC staff and, historically, the PUC has maintained that rules can be promulgated within existing budgetary resources. This has changed in recent years due to the contentious process surrounding the promulgation of rules to implement Amendment 37.

While it is often hard to know in advance how contentious the rulemaking process will be, given that the changes contemplated by the new energy technology and RPS portions this bill would restore previous versions of PUC resource acquisition and RPS rules, it is anticipated that those required rulemakings may be completed within existing appropriations.

The language prohibiting graduated scales for service charges appears to prohibit inverted block rates commonly used by utilities. However, this language may also be viewed as preventing other pricing schemes that segment the market, including time-of-use rates, critical-peak pricing, different rates for different customer classes, and demand-based rates. The PUC would likely have to promulgate rules to clarify the effect of the graduated service charge prohibition on such pricing structures, and it is hard to know in advance how contentious that process would be. If the rulemaking process does require additional resources, this will be addressed in the annual budget process.

State Agency Impact. State agencies are also electric utility customers. To the extent that this bill affects utility rates, the bill will affect state agency expenditures for electric utility service.

Departments Contacted

Regulatory Agencies