

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0742.01 Chuck Brackney x2295

HOUSE BILL 12-1258

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HOUSE SPONSORSHIP

DelGrosso,

SENATE SPONSORSHIP

Jahn,

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House Committees  
Transportation

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING REGULATION OF PUBLIC UTILITIES IN TERMS OF  
102 ALTERNATIVE FUEL VEHICLES.

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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/billssummaries>.)*

The bill specifies that sellers of electricity as fuel for alternative fuel vehicles are not regulated as public utilities. Generating electricity for sale as fuel for alternative fuel vehicles also does not make the seller subject to regulation as a public utility if the seller generates the electricity on the property where the fueling facilities are located and the

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.*

electricity is generated from a renewable resource.

Public utilities must make commercially reasonable efforts to provide connection of electric and natural gas service to alternative fuel vehicle charging facilities. A public utility's right to make unregulated operating expenditures and investments via an unregulated subsidiary with regard to alternative fuel vehicle charging facilities is not limited.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-1-102, **amend** (1);  
3 and **add** (1.5) as follows:

4 **40-1-102. Definitions.** As used in articles 1 to 7 of this title,  
5 unless the context otherwise requires:

6 (1) ~~"Commission" means the public utilities commission of the~~  
7 ~~state of Colorado~~ "ALTERNATIVE FUEL VEHICLE" MEANS ANY  
8 AUTOMOBILE, TRUCK, MOTOR BUS, BOAT, AIRPLANE, TRAIN, TRACTOR, OR  
9 OTHER TYPE OF MOTORIZED OFF-HIGHWAY EQUIPMENT OR OTHER  
10 SELF-PROPELLED DEVICE OR VESSEL THAT IS CAPABLE OF MOVING ITSELF  
11 OR BEING MOVED FROM PLACE TO PLACE UTILIZING NATURAL GAS,  
12 ELECTRICITY, OR A COMBINATION OF NATURAL GAS AND ELECTRICITY AS  
13 TRANSPORTATION FUEL, WHETHER OR NOT THE VEHICLE IS USED IN  
14 AGRICULTURAL, COMMERCIAL, DOMESTIC, OR INDUSTRIAL OPERATIONS.

15 (1.5) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF  
16 THE STATE OF COLORADO.

17 **SECTION 2.** In Colorado Revised Statutes, 40-1-103, **repeal** (4)  
18 as follows:

19 **40-1-103. Public utility defined.** (4) ~~For the purposes of articles~~  
20 ~~1 to 7 of this title, persons selling compressed natural gas or its~~  
21 ~~component parts or by-products to governmental entities or to the public~~  
22 ~~for use as fuel in alternative fuel vehicles shall not be considered to be~~

1 ~~public utilities. As used in this subsection (4), "alternative fuel vehicle"~~  
2 ~~means any automobile, truck, motor bus, or other self-propelled device or~~  
3 ~~vessel which is capable of moving itself or being moved from place to~~  
4 ~~place, whether or not it is used in agricultural, commercial, domestic, or~~  
5 ~~industrial operations.~~

6 **SECTION 3.** In Colorado Revised Statutes, **add** 40-1-103.3 as  
7 follows:

8 **40-1-103.3. Alternative fuel vehicles - definition.** (1) AS USED  
9 IN THIS SECTION, "PROPERTY OR PREMISES", WITH RESPECT TO AN  
10 ELECTRIC OR NATURAL GAS EXTENSION OR CONNECTION OF SERVICE,  
11 INCLUDES ALTERNATIVE FUEL VEHICLE CHARGING AND FUELING FACILITIES  
12 IN ADDITION TO BUILDINGS AND OTHER IMPROVEMENTS.

13 (2) FOR THE PURPOSES OF ARTICLES 1 TO 7 OF THIS TITLE, PERSONS  
14 SELLING ELECTRICITY OR COMPRESSED OR LIQUEFIED NATURAL GAS OR ITS  
15 COMPONENT PARTS OR BY-PRODUCTS TO GOVERNMENTAL ENTITIES OR TO  
16 THE PUBLIC FOR USE AS FUEL IN ALTERNATIVE FUEL VEHICLES OR BUYING  
17 ELECTRICITY STORED IN SUCH VEHICLES FOR RESALE ARE NOT SUBJECT TO  
18 REGULATION AS A PUBLIC UTILITY AND ARE NOT SUBJECT TO THE  
19 JURISDICTION, CONTROL, AND REGULATION OF THE COMMISSION OR ANY  
20 OTHER PUBLIC REGULATORY BODY. AS USED IN THIS SUBSECTION (2),  
21 "PERSONS" DOES NOT INCLUDE ENTITIES REGULATED AS ELECTRIC OR  
22 NATURAL GAS PUBLIC UTILITIES FOR ACTIVITIES OTHER THAN AS  
23 DESCRIBED IN THIS SECTION.

24 (3) OWNERS OR OPERATORS OF PROPERTY OR PREMISES  
25 CONTAINING AN ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING  
26 FACILITY, OR THE OWNERS OR OPERATORS OF THE FACILITY, SHALL  
27 PURCHASE THE ELECTRICITY REQUIRED FOR THE FACILITY FROM A PUBLIC

1 UTILITY OR OTHER ENTITY WITH THE RIGHT TO SELL ELECTRICITY TO THE  
2 PROPERTY, PREMISES, OR FACILITY EXCEPT WHEN THE OWNERS OR  
3 OPERATORS OF THE PROPERTY, PREMISES, OR FACILITY GENERATE  
4 ELECTRICITY ON THE PROPERTY OR PREMISES FOR USE IN ALTERNATIVE  
5 FUEL VEHICLES AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION.

6 (4) THE OWNER OR OPERATOR OF A FACILITY THAT GENERATES  
7 ELECTRICITY FOR USE IN ALTERNATIVE FUEL VEHICLE CHARGING OR  
8 FUELING FACILITIES IS NOT SUBJECT TO REGULATION AS A PUBLIC UTILITY,  
9 IF:

10 (a) THE ELECTRICITY IS GENERATED ON THE PROPERTY OR  
11 PREMISES WHERE THE CHARGING OR FUELING FACILITIES ARE LOCATED;  
12 AND

13 (b) THE ELECTRICITY IS GENERATED FROM A RENEWABLE  
14 RESOURCE IN ACCORDANCE WITH THE ONE-HUNDRED-TWENTY PERCENT  
15 DISTRIBUTED POWER GENERATION LIMITATION PURSUANT TO SECTION  
16 40-2-124(1) OR IS GENERATED ON-SITE FROM NATURAL GAS IF THE PUBLIC  
17 UTILITY WITH THE RIGHT TO SELL ELECTRICITY TO THE PROPERTY OR  
18 PREMISES IS ALSO THE NATURAL GAS UTILITY FOR THE PROPERTY OR  
19 PREMISES. THE ELECTRIC POWER REQUIREMENTS FOR THE PROPERTY OR  
20 PREMISES PURSUANT TO SECTION 40-2-124 (1) INCLUDES THE PROJECTED  
21 DEMAND FOR THE EXISTING OR PROPOSED ALTERNATIVE FUEL VEHICLE  
22 CHARGING OR FUELING FACILITY IN ADDITION TO BUILDINGS AND OTHER  
23 IMPROVEMENTS.

24 (5) SALE OF ELECTRICITY OR NATURAL GAS BY A PUBLIC UTILITY  
25 TO THE OWNER OR OPERATOR OF AN ALTERNATIVE FUEL VEHICLE  
26 CHARGING OR FUELING FACILITY IS NOT A WHOLESALE TRANSACTION.

27 (6) PUBLIC UTILITIES SHALL MAKE COMMERCIALY REASONABLE

1 EFFORTS TO PROVIDE EXTENSION AND CONNECTION OF ELECTRIC AND  
2 NATURAL GAS SERVICE FROM EXISTING UTILITY SERVICES WHEN FEASIBLE  
3 TO CUSTOMER PROPERTY AND PREMISES AT THE VOLTAGE AND AMPERAGE  
4 OF ELECTRIC POWER AND PRESSURE OF NATURAL GAS SERVICE  
5 REASONABLY REQUESTED BY THE CUSTOMER TO OPTIMIZE ENERGY  
6 DELIVERY TO THE ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING  
7 FACILITY AND MINIMIZE EQUIPMENT AND INSTALLATION COSTS FOR THE  
8 FACILITY.

9 (7) (a) A PUBLIC UTILITY MAY MAKE REGULATED OPERATING  
10 EXPENDITURES AND CAPITAL INVESTMENTS:

11 (I) ON THE UTILITY SIDE OF THE METER FOR EXTENSION AND  
12 CONNECTION, INCLUDING BUT NOT LIMITED TO WHAT IS KNOWN AS  
13 CONSTRUCTION ALLOWANCE, OF ELECTRIC AND NATURAL GAS SERVICE TO  
14 CUSTOMER PROPERTY AND PREMISES;

15 (II) ON THE CUSTOMER SIDE OF THE METER, FOR ALTERNATIVE  
16 FUEL VEHICLE CHARGING AND FUELING FACILITIES LOCATED AT A SINGLE-  
17 OR MULTI-FAMILY RESIDENCE FOR THE PRIMARY USE OF THE RESIDENT OR  
18 RESIDENTS;

19 (III) FOR ALTERNATIVE CHARGING OR FUELING FACILITIES FOR THE  
20 PRIMARY USE OF ALTERNATIVE FUEL VEHICLES OWNED OR OPERATED BY  
21 THE PUBLIC UTILITY, BUT NOT FOR FACILITIES INTENDED FOR COMMERCIAL  
22 OR OTHER USES EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF  
23 PARAGRAPH (a) OF THIS SUBSECTION (7); AND

24 (IV) ON THE UTILITY SIDE OF THE METER TO ENABLE ITS ELECTRIC  
25 OR NATURAL GAS DISTRIBUTION SYSTEM TO MEET THE ENERGY DEMAND  
26 FOR ALTERNATIVE FUEL VEHICLES.

27 (b) FOR THE ACTIVITIES DESCRIBED IN PARAGRAPH (a) OF THIS

1 SUBSECTION (7), PUBLIC UTILITIES MAY RECEIVE FULL RECOVERY OF  
2 OPERATING EXPENDITURES AND CAPITAL INVESTMENTS, INCLUDING  
3 APPROPRIATE RATE OF RETURN ON CAPITAL INVESTMENTS, AS  
4 DETERMINED BY THE COMMISSION.

5 (c) FOR PURPOSES OF DETERMINING ALLOWED OPERATING  
6 EXPENSES AND INVESTMENTS, A PUBLIC UTILITY'S "ELECTRIC OR NATURAL  
7 GAS METER" MEANS ITS TRADITIONAL POINT OF ENERGY DELIVERY AND  
8 NOT THE ENERGY MEASUREMENT DEVICE LOCATED IN ELECTRIC CHARGING  
9 EQUIPMENT OR A NATURAL GAS FUELING DISPENSER.

10 (8) NOTHING IN THIS SECTION LIMITS THE RIGHT OF A PUBLIC  
11 UTILITY TO MAKE UNREGULATED OPERATING EXPENDITURES AND CAPITAL  
12 INVESTMENTS VIA AN UNREGULATED SUBSIDIARY WITH RESPECT TO  
13 ALTERNATIVE FUEL VEHICLE CHARGING AND FUELING FACILITIES.

14 (9) THE EXPENDITURES AND INVESTMENTS DESCRIBED IN  
15 SUBSECTION (7) OF THIS SECTION ARE EQUAL IN PRIORITY TO ALL OTHER  
16 INFRASTRUCTURE NECESSARY TO SERVE ANY CUSTOMER OF THE PUBLIC  
17 UTILITY IN ITS SERVICE TERRITORY, BUT ARE SUBORDINATE TO THE SAFETY  
18 AND RELIABILITY OBLIGATIONS OF THE UTILITY.

19 (10) ALL WORK REQUIRED TO MEET THE REQUIREMENTS OF THIS  
20 SECTION SHALL BE WITHIN THE CURRENT FUNDING AND CAPABILITIES OF  
21 THE STATE AGENCIES INVOLVED.

22 **SECTION 4. Act subject to petition - effective date.** This act  
23 takes effect at 12:01 a.m. on the day following the expiration of the  
24 ninety-day period after final adjournment of the general assembly (August  
25 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a  
26 referendum petition is filed pursuant to section 1 (3) of article V of the  
27 state constitution against this act or an item, section, or part of this act

1     within such period, then the act, item, section, or part will not take effect  
2     unless approved by the people at the general election to be held in  
3     November 2012 and, in such case, will take effect on the date of the  
4     official declaration of the vote thereon by the governor.