

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0310.02 Duane Gall x4335

SENATE BILL 13-272

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SENATE SPONSORSHIP

Schwartz,

HOUSE SPONSORSHIP

Fischer,

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Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

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A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO ENERGY DEMAND-SIDE  
102 MANAGEMENT PROGRAMS, AND, IN CONNECTION THEREWITH,  
103 CREATING A PATHWAY FOR INCLUSION OF INNOVATIVE AND  
104 EMERGING TECHNOLOGIES TO OFFSET THE CONSUMPTION OF  
105 NATURAL GAS.

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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/billsummaries>.)*

Current law rewards the use of renewable energy resources for

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.

generating electricity and encourages efficiency measures that reduce demand for both electricity and thermal energy generated from fossil fuels. But current law does not comprehensively encourage the production of thermal energy from renewable sources when offsetting fossil fuels used for heating and cooling. The bill addresses this disparity by adding renewable energy technologies to the measures that may be deployed under existing law as part of a gas utility's demand-side management (DSM) program. In addition, the bill:

- ! Requires investor-owned retail natural gas utilities to devote 30% of their DSM budgets to support the installation of renewable energy technologies that cannot be net metered;
- ! Caps gas utility DSM program expenditures at 4% of total full-service retail sales;
- ! Directs investor-owned retail natural gas utilities to submit, and the public utilities commission (PUC) to consider, proposals to include their most cost-effective and consistently marketable DSM products and services in their rate base, thus freeing up a portion of their existing DSM budgets for emerging technologies; and
- ! Urges the PUC, in any proceeding concerning DSM programs of electric utilities, to draw on the information and experience gained in connection with gas DSM programs as modified by the bill to promote emerging technologies that offset electricity consumption.

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

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Energy Efficiency and Renewable Energy Jobs Act of 2013".

4           **SECTION 2.** In Colorado Revised Statutes, 40-1-102, **amend** (6);  
5 and **add** (8.5) as follows:

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

8           (6) "Demand-side management ~~programs~~ PROGRAM" or "DSM  
9 ~~programs~~ PROGRAM" means:

10           (a) AN energy efficiency, conservation, load management, ~~and~~ OR  
11 demand response ~~programs or~~ PROGRAM;

1 (b) A PROGRAM THAT PROMOTES, OR REWARDS CUSTOMERS FOR,  
2 THE INSTALLATION OF ANY TECHNOLOGY, INCLUDING A RENEWABLE  
3 ENERGY TECHNOLOGY, THAT REDUCES OR OFFSETS A CUSTOMER'S  
4 CONSUMPTION OF ELECTRICITY OR GAS BUT, DUE TO INHERENT PHYSICAL  
5 OR PRACTICAL FACTORS, CANNOT BE NET METERED; AND

6 (c) Any combination of ~~these~~ THE programs LISTED IN  
7 PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (6).

8 (8.5) "HIGHLY COST-EFFECTIVE", WITH REFERENCE TO A NATURAL  
9 GAS DEMAND-SIDE MANAGEMENT PROGRAM OR RELATED MEASURE,  
10 MEANS HAVING A BENEFIT-COST RATIO THAT MEETS THE STANDARD FOR  
11 A HIGHLY COST-EFFECTIVE MEASURE ESTABLISHED BY THE COMMISSION  
12 UNDER SECTION 40-3.2-103.5.

13 **SECTION 3.** In Colorado Revised Statutes, 40-3.2-103, **amend**  
14 (2) (a) as follows:

15 **40-3.2-103. Gas distribution utility demand-side management**  
16 **programs - rules - recovery of costs.** (2) As part of the rule-making  
17 proceeding required by subsection (1) of this section, the commission  
18 shall:

19 (a) Adopt DSM program expenditure targets equal to at least  
20 one-half of one percent, BUT NOT EXCEEDING FOUR PERCENT, of a natural  
21 gas utility's revenues from its full service customers in the year prior to  
22 setting such targets;

23 **SECTION 4.** In Colorado Revised Statutes, **add** 40-3.2-103.5 as  
24 follows:

25 **40-3.2-103.5. Gas DSM through renewable energy - legislative**  
26 **declaration - highly cost-effective technologies - emerging**  
27 **technologies - rules - recovery of costs.** (1) THE GENERAL ASSEMBLY:

1 (a) FINDS THAT:

2 (I) DEMAND-SIDE MANAGEMENT PROGRAMS FOCUSED ON ENERGY  
3 EFFICIENCY, CONSERVATION, LOAD MANAGEMENT, AND DEMAND  
4 RESPONSE ARE EFFECTIVE IN REDUCING DEMAND FOR ENERGY PRODUCED  
5 FROM FOSSIL FUELS; AND

6 (II) SIMILAR REDUCTIONS IN DEMAND CAN RESULT FROM THE  
7 INSTALLATION OF CUSTOMER-SITED RENEWABLE ENERGY TECHNOLOGIES  
8 THAT HAVE NOT PREVIOUSLY BEEN INCLUDED IN THE DEFINITION OF DSM  
9 AND THAT CANNOT BE NET METERED;

10 (b) DETERMINES THAT:

11 (I) IN VIEW OF THE POTENTIAL BENEFITS, IT IS PRUDENT TO  
12 INCLUDE APPROPRIATE RENEWABLE THERMAL ENERGY TECHNOLOGIES IN  
13 DSM PROGRAMS AND TO ALLOCATE A REASONABLE PORTION OF  
14 RATEPAYER FUNDS TO INVESTMENT IN RENEWABLE THERMAL ENERGY  
15 TECHNOLOGIES THAT REDUCE FOSSIL FUEL CONSUMPTION; AND

16 (II) SOME DSM PROGRAMS HAVE PROVEN THEMSELVES NOT ONLY  
17 COST-EFFECTIVE, BUT HIGHLY COST-EFFECTIVE AND ANTICIPATED TO BE  
18 IN THE MARKET FOR MORE THAN ONE BIENNIAL DSM PLAN, JUSTIFYING  
19 THEIR CONSIDERATION FOR COST RECOVERY THROUGH BASE RATES; AND

20 (c) DECLARES THAT THE COMMISSION'S ADOPTION OF RULES IN  
21 ACCORDANCE WITH THIS SECTION IS IN THE PUBLIC INTEREST.

22 (2) (a) NOTWITHSTANDING SECTION 40-1-102 (5) (c), THE  
23 COMMISSION SHALL MEASURE THE COST-EFFECTIVENESS OF DSM  
24 PROGRAMS AND TECHNOLOGIES THAT OFFSET GAS CONSUMPTION USING A  
25 UTILITY COST TEST THAT DOES NOT INCLUDE PARTICIPANT EXPENDITURES.

26 (b) EFFECTIVE JULY 1, 2013, THE COMMISSION SHALL DIRECT EACH  
27 INVESTOR-OWNED RETAIL NATURAL GAS UTILITY TO ALLOCATE AT LEAST

1 THIRTY PERCENT OF ITS DSM PROGRAM FUNDING TO THE DEVELOPMENT  
2 OF RENEWABLE THERMAL ENERGY TECHNOLOGIES. THE COMMISSION MAY  
3 REVIEW THE APPROPRIATENESS OF THIS FUNDING LEVEL ON OR AFTER JULY  
4 1, 2018, AND ADOPT RULES TO ADJUST IT BASED ON THE COMMISSION'S  
5 FINDINGS AS TO MARKET CONDITIONS AND CHANGES IN THE PRICE OF  
6 NATURAL GAS.

7 (3) ON OR BEFORE SEPTEMBER 30, 2013, THE COMMISSION SHALL  
8 COMMENCE A RULE-MAKING PROCEEDING TO ADOPT RULES THAT:

9 (a) IDENTIFY AND DEFINE RENEWABLE THERMAL ENERGY  
10 TECHNOLOGIES THAT CANNOT BE NET METERED BUT ARE EFFECTIVE IN  
11 REDUCING FOSSIL FUEL CONSUMPTION. THESE TECHNOLOGIES INCLUDE, AT  
12 A MINIMUM:

13 (I) GROUND-SOURCED HEAT PUMPS; AND

14 (II) ACTIVE SOLAR THERMAL SYSTEMS THAT USE A LIQUID TO  
15 COLLECT AND STORE HEAT;

16 (b) ESTABLISH STANDARDS AND PROCEDURES TO DETERMINE  
17 HIGHLY COST-EFFECTIVE GAS DSM PROGRAMS; AND

18 (c) DIRECT EACH INVESTOR-OWNED RETAIL NATURAL GAS UTILITY  
19 TO SUBMIT, AS PART OF ITS NEXT RATE CASE, PROPOSALS FOR CREATING A  
20 REGULATORY ASSET OR COLLECTION THROUGH BASE RATES FOR ANY DSM  
21 PROGRAM THAT IS ANTICIPATED TO BE IN THE MARKET THROUGH MORE  
22 THAN ONE BIENNIAL DSM PROGRAM PLAN AND THAT IS HIGHLY  
23 COST-EFFECTIVE AS DETERMINED BY THE COMMISSION. THE COMMISSION'S  
24 STANDARD FOR DETERMINING WHETHER A DSM PROGRAM IS HIGHLY  
25 COST-EFFECTIVE MUST BE DESIGNED, AS NEARLY AS PRACTICABLE, TO  
26 INCLUDE THE MOST COST-EFFECTIVE PROGRAMS.

27 (4) (a) AS PART OF THE RULE-MAKING PROCEEDING UNDER

1 SUBSECTION (3) OF THIS SECTION, THE COMMISSION SHALL CONSIDER AND,  
2 IF APPROPRIATE, ADOPT RULES TO ENABLE, THE MOST COST-EFFECTIVE  
3 MEANS OF ADMINISTERING DSM PROGRAMS BY OR ON BEHALF OF ONE OR  
4 MORE INVESTOR-OWNED RETAIL NATURAL GAS UTILITIES THAT EACH  
5 SERVE FEWER THAN TWO HUNDRED THOUSAND CUSTOMERS.

6 (b) IN ANY PROCEEDING CONCERNING DSM PROGRAMS OF  
7 ELECTRIC UTILITIES, THE COMMISSION SHALL GIVE THE FULLEST POSSIBLE  
8 CONSIDERATION TO MEASURES TO ENCOURAGE THE DEVELOPMENT AND  
9 DEPLOYMENT OF EMERGING RENEWABLE THERMAL ENERGY  
10 TECHNOLOGIES THAT OFFSET ELECTRICITY CONSUMPTION, DRAWING UPON  
11 THE INFORMATION AND EXPERIENCE GAINED IN THE COURSE OF THE  
12 RULE-MAKING PROCEEDING UNDER SUBSECTION (2) OF THIS SECTION.

13 (5) A UTILITY'S FUNDING OF RENEWABLE THERMAL ENERGY  
14 TECHNOLOGIES IN ACCORDANCE WITH THE RULES ADOPTED UNDER THIS  
15 SECTION IS ELIGIBLE FOR REVIEW AND SUPPLEMENTAL BONUSES IN  
16 ACCORDANCE WITH SECTION 40-3.2-103 (6).

17 **SECTION 5.** In Colorado Revised Statutes, **amend** 40-3.2-105  
18 as follows:

19 **40-3.2-105. Reporting requirement.** By April 30, 2009, and by  
20 each April 30 thereafter, the commission shall submit a report to the  
21 business, labor, and technology committee of the senate, or its successor  
22 committee, and the business affairs and labor committee of the house of  
23 representatives, or its successor committee, on the progress made by  
24 investor-owned utilities in meeting their natural gas and electricity  
25 demand-side management goals. The report shall include any  
26 recommended statutory changes the commission deems necessary to  
27 further the intent of sections 40-3.2-103, ~~and~~ 40-3.2-104, AND

1 40-3.2-103.5.

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