A BILL FOR AN ACT

CONCERNING A DIRECTIVE TO EXPLORE PERFORMANCE-BASED REGULATION OF INVESTOR-OWNED UTILITIES.

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.)

The bill declares that certain factors other than short-term economic costs deserve to be considered in establishing the rates and policies of investor-owned public utilities, for example, long-term economic sustainability; efficiency of generation, delivery, and consumption; the resiliency and diversity of energy generation resources; environmental factors including water consumption and carbon...
emissions; and customer satisfaction. Accordingly, the bill directs the Colorado public utilities commission to open an investigatory proceeding to explore alternative utility revenue models and report its findings to the general assembly by October 1, 2016.

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

SECTION 1. In Colorado Revised Statutes, add 40-3-102.5 as follows:

40-3-102.5. Performance-based regulation - alternative revenue models - legislative declaration - commission to investigate - report - repeal. (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) AS THE BUSINESS OF SUPPLYING ELECTRICITY TO CONSUMERS BECOMES MORE COMPLEX AND MORE SUBJECT TO FACTORS OTHER THAN THE DOLLAR COSTS OF INFRASTRUCTURE AND FUEL AND A UTILITY’S RETURN ON ITS INVESTMENT, IT IS IN THE INTEREST OF THE STATE OF COLORADO AND ITS ELECTRICITY CONSUMERS TO REEXAMINE THE EXISTING REGULATORY FRAMEWORK AND RETUNE IT AS NECESSARY TO BETTER ALIGN REGULATED UTILITIES’ EARNINGS WITH PUBLIC OBJECTIVES;

(b) BECAUSE INVESTMENTS MADE BY UTILITIES AND PAID FOR BY THEIR CUSTOMERS ARE OFTEN LARGE AND LONG-TERM INVESTMENTS, THERE IS A PUBLIC BENEFIT TO BE ACHieved BY MITIGATING THE LONG-TERM RISKS OF THESE INVESTMENTS, REDUCING INVESTMENT COSTS, AND ENCOURAGING INVESTMENTS IN UTILITY INFRASTRUCTURE THAT WILL BEST SERVE THE CONTINUING NEEDS OF CUSTOMERS AND SOCIETY AT LARGE;

(c) BECAUSE IT IS LIKELY THAT, WITHIN THE TIME PERIOD NECESSARILY CONSIDERED WHEN PLANNING UTILITY INFRASTRUCTURE

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INVESTMENTS, THERE WILL BE LIMITATIONS IMPOSED ON GREENHOUSE GAS
EMISSIONS, IT IS IMPORTANT FOR THE COMMISSION TO FULLY CONSIDER
POTENTIAL FUTURE EMISSIONS REGULATIONS WHEN EVALUATING
CUSTOMER COSTS AND POTENTIAL RISKS ASSOCIATED WITH INVESTMENT
DECISIONS;

(d) DEVELOPING A PERFORMANCE-BASED REGULATORY SYSTEM
WILL DRIVE INNOVATION AND PROMOTE ECONOMIC DEVELOPMENT IN A
VARIETY OF TECHNOLOGIES;

(e) REWARDING UTILITIES FOR IMPROVEMENTS IN PERFORMANCE
WILL LEAD TO INCREASED SERVICES AND VALUE FOR UTILITY CUSTOMERS;

(f) ALIGNING UTILITY EARNINGS WITH PUBLIC OBJECTIVES WILL
ALLOW UTILITY SERVICES TO KEEP PACE WITH CONSUMER DEMAND;

(g) BY ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS
TO PROMOTE INNOVATION IN COLORADO'S UTILITY ENERGY SECTOR AND
MOVE TOWARD A MORE EFFICIENT, RELIABLE, AND RESILIENT SYSTEM
THAT WILL BEST SERVE COLORADO'S CITIZENS; AND

(h) THE GENERAL ASSEMBLY CALLS UPON THE COMMISSION TO:

(I) FULLY INVESTIGATE AND REPORT ON POTENTIAL REGULATORY
CHANGES TO THE UTILITY REGULATORY MODEL THAT WILL PROVIDE
CUSTOMERS WITH A PLATFORM OF INNOVATIVE SERVICE AND PRODUCT
OFFERINGS TO ALLOW THEM TO BETTER MANAGE THEIR ENERGY USAGE
AND BILLS;

(II) IMPLEMENT NEW SERVICES, ALTERNATIVE RATE STRUCTURES,
AND POTENTIALLY NEW STANDARDS AND APPROVAL PROCESSES TO
ENCOURAGE INNOVATION AND BRING NEW SERVICES TO MARKET IN A
TIMELY AND EFFECTIVE MANNER;

(III) IMPLEMENT A NEW REGULATORY FRAMEWORK THAT
PROVIDES BOTH PREDICTABLE RATES FOR CUSTOMERS AND A MORE TIMELY AND NIMBLE REVIEW WHILE RETAINING THE KEY BENEFITS OF EXISTING PROCESSES, FREEING VALUABLE TIME FOR REGULATORY AGENCIES, CUSTOMERS, STAKEHOLDERS, AND UTILITIES TO FOCUS ON ACHIEVING POLICY OBJECTIVES; AND

(IV) REWARD UTILITIES BASED ON PERFORMANCE OUTCOMES THAT ARE TECHNOLOGY-NEUTRAL AND BASED ON CLEAR, CONCRETE, AND PREDICTABLE PERFORMANCE METRICS.

(2) **Public objectives for measurement of performance.** The General Assembly finds that Colorado has an interest in ensuring that utilities are managing their business practices to achieve the following objectives:

(a) **Maximizing:**

(I) **Consumer satisfaction;**

(II) **System reliability and resiliency;**

(III) **Generation and delivery system efficiency;**

(IV) **Energy-use and custom-load efficiency;**

(V) **Electric system intelligence, operations flexibility, and capabilities;**

(VI) **Diversification of generation resources between centralized and distributed resources; and**

(VII) **Asset availability rates; and**

(b) **Minimizing:**

(I) **Consumer costs and risks, including health and environmental risks;**

(II) **Pollution, including greenhouse gas emissions, across generation portfolios;**
(III) The need for new investment in generation and energy delivery system capacity through energy efficiency and demand-side management; and

(IV) Water consumption and water intensity of generation resources.

(3) Investigation. (a) The commission shall initiate an investigatory proceeding to develop information and analysis, seek and receive comments from the industry and the public, and recommend options and alternatives for improved utility business and revenue models to align utility earnings with the public policy objectives outlined in subsection (2) of this section. Through use of the investigatory proceeding, the commission shall strive, at a minimum, to:

(I) Determine suitable metrics to evaluate and gauge utility performance that would provide a basis for new incentives to encourage utilities to undertake changes needed to meet the policy objectives;

(II) Define how the commission could set utility earnings levels or other investment return mechanisms based on achievement of specified outcomes;

(III) Develop innovative models of utility service delivery and energy management that will accomplish those stated outcomes;

(IV) Propose new regulatory approaches that will improve the quality, timeliness, and outcomes of the commission's regulatory oversight processes and procedures, consistent with the new outcomes sought from utilities;
(V) IDENTIFY POTENTIAL ADDITIONAL MARKET SEGMENTATION AND RATE CLASSES BASED ON CONSUMER VALUES, INCLUDING AFFORDABILITY, RELIABILITY, SAFETY, LEVEL OF ENGAGEMENT, EFFICIENCY, SERVICES, CHOICE OF FUEL SOURCE, AND TYPE OF USE;

(VI) PROPOSE EARNINGS STRUCTURES IN WHICH BETTER PERFORMANCE RELATIVE TO OUTCOMES THAT SUPPORT STATE POLICIES AND ESTABLISHED METRICS RESULTS IN HIGHER EARNINGS FOR UTILITIES, AND, CONVERSELY, LOWER PERFORMANCE RESULTS IN LOWER EARNINGS FOR UTILITIES;

(VII) INVESTIGATE OPTIONS FOR ELIMINATING THE DIRECT TIE BETWEEN SALES VOLUME AND UTILITY REVENUES AND MOVING TOWARD COMPENSATION BASED ON SERVICE THAT MAXIMIZES CONSUMER OPTIONS WHILE MINIMIZING OR REDUCING CONSUMER COSTS; AND

(VIII) INVESTIGATE AND RECOMMEND OPTIONS FOR CUSTOMER EARNINGS SHARING BASED ON UTILITY COST SAVINGS AND FOR CUSTOMERS TO SHARE IN REVENUE STREAMS FROM PRODUCTS AND SERVICES.

(b) IN THE COURSE OF ITS INVESTIGATION UNDER THIS SUBSECTION (3), THE COMMISSION SHALL EXAMINE, AND ENCOURAGE INVESTOR-OWNED UTILITIES TO PROPOSE, CHANGES TO THE EXISTING BUSINESS MODEL AND REGULATORY STRUCTURE UNDER WHICH:

(I) UTILITY EARNINGS ARE PREDICTABLE, COMMENSURATE WITH THE LEVELS OF SERVICE DELIVERED;

(II) CONSUMERS RECEIVE INCREASING VALUE FOR THEIR MONEY AS UTILITIES BECOME MORE EFFICIENT AND INNOVATIVE OVER TIME;

(III) CUSTOMERS HAVE INCENTIVES TO REDUCE THEIR OVERALL ENERGY USAGE; AND
(IV) Utilities are able to remain profitable while reducing carbon emissions.

(c) In considering the business models and regulatory structures described in paragraph (b) of this subsection (3), in terms of both consumer value for money and utility investor earnings, the commission shall:

(I) Evaluate the extent to which utilities would achieve specified performance outcomes established to meet the state's policy objectives as outlined in subsection (I) of this section;

(II) Identify changes to state statutes and the commission's rules that the commission believes would be necessary or advisable to achieve the goals of this section;

(III) Estimate the time required and any budgetary impacts, including both costs and savings, that would be required to implement new regulatory and business structures and approaches contained in its recommendations; and

(IV) In the commission's discretion, authorize one or more pilot programs to test the viability and measure the effectiveness of any proposed business model or regulatory structure contemplated under subparagraphs (I) to (III) of this paragraph (c).

(4) Report. (a) The commission shall conclude its investigation under subsection (3) of this section by August 1, 2016, and report its findings and recommendations on or before October 1, 2016, to: The executive committee of the legislative council of the general assembly; the governor's office; the house committee on transportation and energy or its successor.
COMMITTEE; AND THE SENATE COMMITTEE ON AGRICULTURE, NATURAL
RESOURCES, AND ENERGY OR ITS SUCCESSOR COMMITTEE.

(b) In preparing its findings and recommendations, the
commission is not confined to considering issues, findings, and
proposals submitted by parties or intervenors and may contract
with experts of the commission's choosing, subject to available
resources.

(5) This section is repealed, effective July 1, 2017.

SECTION 2. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly
(August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
if a referendum petition is filed pursuant to section 1 (3) of article V of
the state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in
November 2016 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.