

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

REVISED

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

LLS NO. 08-0031.04 Thomas Morris

HOUSE BILL 08-1160

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A BILL FOR AN ACT

101 **CONCERNING NET METERING FOR CUSTOMER-GENERATORS OF**
102 **ELECTRIC UTILITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Repeals the existing law that requires a cooperative electric association (CEA) to provide its customers who generate electricity with a net metering program. Requires municipally owned utilities that serve at least 5,000 customers (MOUs) and CEAs to provide residential customers who generate up to 10 kilowatts from eligible energy resources with a net meter and to provide commercial or industrial customers who generate up to 25 kilowatts from eligible energy resources with a net

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
March 5, 2008

HOUSE
3rd Reading Unam ended
February 13, 2008

HOUSE
Am ended 2nd Reading
February 5, 2008

meter. Requires CEAs and MOUs to credit a customer-generator's excess generation one-to-one against the customer's monthly energy consumption and to account for such excess generation annually or when the customer terminates electrical service. Requires CEAs, MOUs, and qualifying retail utilities subject to the renewable energy standard to provide net metering at nondiscriminatory rates. Specifies interconnection standards.

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

2 **SECTION 1. Repeal.** Part 3 of article 9.5 of title 40, Colorado
3 Revised Statutes, is repealed.

4 **SECTION 2.** Part 1 of article 9.5 of title 40, Colorado Revised
5 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
6 read:

7 **40-9.5-118. Net metering - rules.** (1) **Definitions.** FOR
8 PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (a) "CUSTOMER-GENERATOR" MEANS AN END-USE ELECTRICITY
10 CUSTOMER THAT GENERATES ELECTRICITY ON THE CUSTOMER'S SIDE OF
11 THE METER USING ELIGIBLE ENERGY RESOURCES.

12 (b) "ELIGIBLE ENERGY RESOURCES" HAS THE MEANING
13 ESTABLISHED IN SECTION 40-2-124.

14 (2) EACH COOPERATIVE ELECTRIC ASSOCIATION SHALL ALLOW A
15 CUSTOMER-GENERATOR'S RETAIL ELECTRICITY CONSUMPTION TO BE
16 OFFSET BY THE ELECTRICITY GENERATED FROM ELIGIBLE ENERGY
17 RESOURCES ON THE CUSTOMER-GENERATOR'S SIDE OF THE METER THAT
18 ARE INTERCONNECTED WITH THE FACILITIES OF THE COOPERATIVE
19 ELECTRIC ASSOCIATION, SUBJECT TO THE FOLLOWING:

20 (a) **Monthly excess generation.** IF A CUSTOMER-GENERATOR
21 GENERATES ELECTRICITY IN EXCESS OF THE CUSTOMER-GENERATOR'S
22 MONTHLY CONSUMPTION, ALL SUCH EXCESS ENERGY, EXPRESSED IN

1 KILOWATT-HOURS, SHALL BE CARRIED FORWARD FROM MONTH TO MONTH
2 AND CREDITED AT A RATIO OF ONE TO ONE AGAINST THE
3 CUSTOMER-GENERATOR'S ENERGY CONSUMPTION, EXPRESSED IN
4 KILOWATT-HOURS, IN SUBSEQUENT MONTHS.

5 (b) **Annual excess generation.** WITHIN SIXTY DAYS AFTER THE
6 END OF EACH ANNUAL PERIOD, OR WITHIN SIXTY DAYS AFTER THE
7 CUSTOMER-GENERATOR TERMINATES ITS RETAIL SERVICE, THE
8 COOPERATIVE ELECTRIC ASSOCIATION SHALL ACCOUNT FOR ANY EXCESS
9 ENERGY GENERATION, EXPRESSED IN KILOWATT-HOURS, ACCRUED BY THE
10 CUSTOMER-GENERATOR AND SHALL CREDIT SUCH EXCESS GENERATION TO
11 THE CUSTOMER-GENERATOR IN A MANNER DEEMED APPROPRIATE BY THE
12 COOPERATIVE ELECTRIC ASSOCIATION.

13 (c) **Nondiscriminatory rates.** A COOPERATIVE ELECTRIC
14 ASSOCIATION SHALL PROVIDE NET METERING SERVICE AT
15 NONDISCRIMINATORY RATES.

16 (d) **Interconnection standards.** A COOPERATIVE ELECTRIC
17 ASSOCIATION AND A CUSTOMER-GENERATOR SHALL COMPLY WITH THE
18 INTERCONNECTION STANDARDS AND INSURANCE REQUIREMENTS
19 ESTABLISHED IN THE RULES PROMULGATED BY THE PUBLIC UTILITIES
20 COMMISSION PURSUANT TO SECTION 40-2-124; EXCEPT THAT THE
21 COOPERATIVE ELECTRIC ASSOCIATION MAY REDUCE OR WAIVE ANY OF THE
22 INSURANCE REQUIREMENTS, AND EXCEPT THAT THE PUBLIC UTILITIES
23 COMMISSION SHALL INITIATE A RULE-MAKING PROCEEDING NO LATER
24 THAN OCTOBER 1, 2008, FOR THE PURPOSE OF ADDRESSING COOPERATIVE
25 ELECTRIC ASSOCIATION SYSTEM ISSUES IN ITS SMALL GENERATOR
26 INTERCONNECTION PROCEDURES. _____ A COOPERATIVE ELECTRIC
27 ASSOCIATION SHALL NOT PREVENT OR UNREASONABLY BURDEN THE

1 INSTALLATION OF A NET METERING SYSTEM IF SUCH SYSTEM INCLUDES
2 PROTECTIVE EQUIPMENT THAT PREVENTS ANY EXPORT OF
3 CUSTOMER-GENERATED ELECTRICITY FROM THE CUSTOMER'S SIDE OF THE
4 METER.

5 (e) (I) **Size specifications.** EACH COOPERATIVE ELECTRIC
6 ASSOCIATION SHALL ALLOW:

7 (A) RESIDENTIAL CUSTOMER-GENERATORS TO GENERATE
8 ELECTRICITY SUBJECT TO NET METERING UP TO TEN KILOWATTS; AND

9 (B) COMMERCIAL OR INDUSTRIAL CUSTOMER-GENERATORS TO
10 GENERATE ELECTRICITY SUBJECT TO NET METERING UP TO TWENTY-FIVE
11 KILOWATTS.

12 (II) EACH COOPERATIVE ELECTRIC ASSOCIATION MAY ALLOW
13 CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO NET
14 METERING IN AMOUNTS IN EXCESS OF THE MINIMUM AMOUNTS SPECIFIED
15 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e). IF THE COOPERATIVE
16 ELECTRIC ASSOCIATION DENIES INTERCONNECTION TO A
17 CUSTOMER-GENERATOR THAT HAS REQUESTED INTERCONNECTION OF A
18 SYSTEM WITH A CAPACITY OF TWENTY-FIVE KILOWATTS OR LARGER, THE
19 ASSOCIATION SHALL PROVIDE A WRITTEN TECHNICAL OR ECONOMIC
20 EXPLANATION OF SUCH DENIAL TO THE CUSTOMER.

21 (3) THE COOPERATIVE ELECTRIC ASSOCIATION AND THE
22 CUSTOMER-GENERATOR SHALL INDEMNIFY, DEFEND, AND SAVE THE OTHER
23 PARTY HARMLESS FROM ANY AND ALL DAMAGES, LOSSES, OR CLAIMS,
24 INCLUDING CLAIMS AND ACTIONS RELATING TO INJURY TO OR DEATH OF
25 ANY PERSON OR DAMAGE TO PROPERTY, DEMAND, SUITS, RECOVERIES,
26 COSTS AND EXPENSES, COURT COSTS, ATTORNEY FEES, AND ALL OTHER
27 OBLIGATIONS BY OR TO THIRD PARTIES, ARISING OUT OF OR RESULTING

1 FROM THE OTHER PARTY'S ACTION OR FAILURE TO ACT IN RELATION TO
2 ANY OBLIGATIONS UNDER THIS SECTION, EXCEPT IN CASES OF GROSS
3 NEGLIGENCE OR INTENTIONAL WRONGDOING BY THE INDEMNIFIED PARTY.

4 **SECTION 3.** 40-2-124, Colorado Revised Statutes, is amended
5 BY THE ADDITION OF A NEW SUBSECTION to read:

6 **40-2-124. Renewable energy standard - definitions - net**
7 **metering.** (7) (a) **Definitions.** FOR PURPOSES OF THIS SUBSECTION (7),
8 UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (I) "CUSTOMER-GENERATOR" MEANS AN END-USE ELECTRICITY
10 CUSTOMER THAT GENERATES ELECTRICITY ON THE CUSTOMER'S SIDE OF
11 THE METER USING ELIGIBLE ENERGY RESOURCES.

12 (II) "MUNICIPALLY OWNED UTILITY" MEANS A MUNICIPALLY
13 OWNED UTILITY THAT SERVES FIVE THOUSAND CUSTOMERS OR MORE.

14 (b) EACH MUNICIPALLY OWNED UTILITY SHALL ALLOW A
15 CUSTOMER-GENERATOR'S RETAIL ELECTRICITY CONSUMPTION TO BE
16 OFFSET BY THE ELECTRICITY GENERATED FROM ELIGIBLE ENERGY
17 RESOURCES ON THE CUSTOMER-GENERATOR'S SIDE OF THE METER THAT
18 ARE INTERCONNECTED WITH THE FACILITIES OF THE MUNICIPALLY OWNED
19 UTILITY, SUBJECT TO THE FOLLOWING:

20 (I) **Monthly excess generation.** IF A CUSTOMER-GENERATOR
21 GENERATES ELECTRICITY IN EXCESS OF THE CUSTOMER-GENERATOR'S
22 MONTHLY CONSUMPTION, ALL SUCH EXCESS ENERGY, EXPRESSED IN
23 KILOWATT-HOURS, SHALL BE CARRIED FORWARD FROM MONTH TO MONTH
24 AND CREDITED AT A RATIO OF ONE TO ONE AGAINST THE
25 CUSTOMER-GENERATOR'S ENERGY CONSUMPTION, EXPRESSED IN
26 KILOWATT-HOURS, IN SUBSEQUENT MONTHS.

27 (II) **Annual excess generation.** WITHIN SIXTY DAYS AFTER THE

1 END OF EACH ANNUAL PERIOD, OR WITHIN SIXTY DAYS AFTER THE
2 CUSTOMER-GENERATOR TERMINATES ITS RETAIL SERVICE, THE
3 MUNICIPALLY OWNED UTILITY SHALL ACCOUNT FOR ANY EXCESS ENERGY
4 GENERATION, EXPRESSED IN KILOWATT-HOURS, ACCRUED BY THE
5 CUSTOMER-GENERATOR AND SHALL CREDIT SUCH EXCESS GENERATION TO
6 THE CUSTOMER-GENERATOR IN A MANNER DEEMED APPROPRIATE BY THE
7 MUNICIPALLY OWNED UTILITY.

8 (III) **Nondiscriminatory rates.** A MUNICIPALLY OWNED UTILITY
9 SHALL PROVIDE NET METERING SERVICE AT NONDISCRIMINATORY RATES.

10 (IV) **Interconnection standards.** EACH MUNICIPALLY OWNED
11 UTILITY SHALL ADOPT AND POST SMALL GENERATION INTERCONNECTION
12 STANDARDS AND INSURANCE REQUIREMENTS THAT ARE FUNCTIONALLY
13 SIMILAR TO THOSE ESTABLISHED IN THE RULES PROMULGATED BY THE
14 PUBLIC UTILITIES COMMISSION PURSUANT TO THIS SECTION; EXCEPT THAT
15 THE MUNICIPALLY OWNED UTILITY MAY REDUCE OR WAIVE ANY OF THE
16 INSURANCE REQUIREMENTS. IF ANY CUSTOMER-GENERATOR SUBJECT TO
17 THE SIZE SPECIFICATIONS SPECIFIED IN SUBPARAGRAPH (V) OF THIS
18 PARAGRAPH (b) IS DENIED INTERCONNECTION BY THE MUNICIPALLY
19 OWNED UTILITY, THE UTILITY SHALL PROVIDE A WRITTEN TECHNICAL OR
20 ECONOMIC EXPLANATION OF SUCH DENIAL TO THE CUSTOMER.

21 (V) **Size specifications.** EACH MUNICIPALLY OWNED UTILITY MAY
22 ALLOW CUSTOMER-GENERATORS TO GENERATE ELECTRICITY SUBJECT TO
23 NET METERING IN AMOUNTS IN EXCESS OF THOSE SPECIFIED IN THIS
24 SUBPARAGRAPH (V), AND SHALL ALLOW:

25 (A) RESIDENTIAL CUSTOMER-GENERATORS TO GENERATE
26 ELECTRICITY SUBJECT TO NET METERING UP TO TEN KILOWATTS; AND

27 (B) COMMERCIAL OR INDUSTRIAL CUSTOMER-GENERATORS TO

1 GENERATE ELECTRICITY SUBJECT TO NET METERING UP TO TWENTY-FIVE
2 KILOWATTS.

3 **SECTION 4. Effective date.** This act shall take effect at 12:01
4 a.m. on the day following the expiration of the ninety-day period after
5 final adjournment of the general assembly that is allowed for submitting
6 a referendum petition pursuant to article V, section 1 (3) of the state
7 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
8 except that, if a referendum petition is filed against this act or an item,
9 section, or part of this act within such period, then the act, item, section,
10 or part, if approved by the people, shall take effect on the date of the
11 official declaration of the vote thereon by proclamation of the governor.