

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-0486.01 Duane Gall x4335

HOUSE BILL 15-1250

HOUSE SPONSORSHIP

Tyler, Esgar, Foote, Lee, Melton, Pabon, Winter

SENATE SPONSORSHIP

Jones, Garcia

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A DIRECTIVE TO EXPLORE PERFORMANCE-BASED**
102 **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

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.*

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.

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

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

4 **40-3-102.5. Performance-based regulation - alternative**
5 **revenue models - legislative declaration - commission to investigate**
6 **- report - repeal.** (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND
7 DECLARES THAT:

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

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

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

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

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

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

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

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

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

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

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

27 (III) IMPLEMENT A NEW REGULATORY FRAMEWORK THAT

1 PROVIDES BOTH PREDICTABLE RATES FOR CUSTOMERS AND A MORE
2 TIMELY AND NIMBLE REVIEW WHILE RETAINING THE KEY BENEFITS OF
3 EXISTING PROCESSES, FREEING VALUABLE TIME FOR REGULATORY
4 AGENCIES, CUSTOMERS, STAKEHOLDERS, AND UTILITIES TO FOCUS ON
5 ACHIEVING POLICY OBJECTIVES; AND

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

9 (2) **Public objectives for measurement of performance.** THE
10 GENERAL ASSEMBLY FINDS THAT COLORADO HAS AN INTEREST IN
11 ENSURING THAT UTILITIES ARE MANAGING THEIR BUSINESS PRACTICES TO
12 ACHIEVE THE FOLLOWING OBJECTIVES:

13 (a) MAXIMIZING:

14 (I) CONSUMER SATISFACTION;

15 (II) SYSTEM RELIABILITY AND RESILIENCY;

16 (III) GENERATION AND DELIVERY SYSTEM EFFICIENCY;

17 (IV) ENERGY-USE AND CUSTOM-LOAD EFFICIENCY;

18 (V) ELECTRIC SYSTEM INTELLIGENCE, OPERATIONS FLEXIBILITY,
19 AND CAPABILITIES;

20 (VI) DIVERSIFICATION OF GENERATION RESOURCES BETWEEN
21 CENTRALIZED AND DISTRIBUTED RESOURCES; AND

22 (VII) ASSET AVAILABILITY RATES; AND

23 (b) MINIMIZING:

24 (I) CONSUMER COSTS AND RISKS, INCLUDING HEALTH AND
25 ENVIRONMENTAL RISKS;

26 (II) POLLUTION, INCLUDING GREENHOUSE GAS EMISSIONS, ACROSS
27 GENERATION PORTFOLIOS;

1 (III) THE NEED FOR NEW INVESTMENT IN GENERATION AND ENERGY
2 DELIVERY SYSTEM CAPACITY THROUGH ENERGY EFFICIENCY AND
3 DEMAND-SIDE MANAGEMENT; AND

4 (IV) WATER CONSUMPTION AND WATER INTENSITY OF
5 GENERATION RESOURCES.

6 (3) **Investigation.** (a) THE COMMISSION SHALL INITIATE AN
7 INVESTIGATORY PROCEEDING TO DEVELOP INFORMATION AND ANALYSIS,
8 SEEK AND RECEIVE COMMENTS FROM THE INDUSTRY AND THE PUBLIC, AND
9 RECOMMEND OPTIONS AND ALTERNATIVES FOR IMPROVED UTILITY
10 BUSINESS AND REVENUE MODELS TO ALIGN UTILITY EARNINGS WITH THE
11 PUBLIC POLICY OBJECTIVES OUTLINED IN SUBSECTION (2) OF THIS SECTION.
12 THROUGH USE OF THE INVESTIGATORY PROCEEDING, THE COMMISSION
13 SHALL STRIVE, AT A MINIMUM, TO:

14 (I) DETERMINE SUITABLE METRICS TO EVALUATE AND GAUGE
15 UTILITY PERFORMANCE THAT WOULD PROVIDE A BASIS FOR NEW
16 INCENTIVES TO ENCOURAGE UTILITIES TO UNDERTAKE CHANGES NEEDED
17 TO MEET THE POLICY OBJECTIVES;

18 (II) DEFINE HOW THE COMMISSION COULD SET UTILITY EARNINGS
19 LEVELS OR OTHER INVESTMENT RETURN MECHANISMS BASED ON
20 ACHIEVEMENT OF SPECIFIED OUTCOMES;

21 (III) DEVELOP INNOVATIVE MODELS OF UTILITY SERVICE DELIVERY
22 AND ENERGY MANAGEMENT THAT WILL ACCOMPLISH THOSE STATED
23 OUTCOMES;

24 (IV) PROPOSE NEW REGULATORY APPROACHES THAT WILL
25 IMPROVE THE QUALITY, TIMELINESS, AND OUTCOMES OF THE
26 COMMISSION'S REGULATORY OVERSIGHT PROCESSES AND PROCEDURES,
27 CONSISTENT WITH THE NEW OUTCOMES SOUGHT FROM UTILITIES;

1 (V) IDENTIFY POTENTIAL ADDITIONAL MARKET SEGMENTATION
2 AND RATE CLASSES BASED ON CONSUMER VALUES, INCLUDING
3 AFFORDABILITY, RELIABILITY, SAFETY, LEVEL OF ENGAGEMENT,
4 EFFICIENCY, SERVICES, CHOICE OF FUEL SOURCE, AND TYPE OF USE;

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

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

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

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

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

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

26 (III) CUSTOMERS HAVE INCENTIVES TO REDUCE THEIR OVERALL
27 ENERGY USAGE; AND

1 (IV) UTILITIES ARE ABLE TO REMAIN PROFITABLE WHILE REDUCING
2 CARBON EMISSIONS.

3 (c) IN CONSIDERING THE BUSINESS MODELS AND REGULATORY
4 STRUCTURES DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (3), IN
5 TERMS OF BOTH CONSUMER VALUE FOR MONEY AND UTILITY INVESTOR
6 EARNINGS, THE COMMISSION SHALL:

7 (I) EVALUATE THE EXTENT TO WHICH UTILITIES WOULD ACHIEVE
8 SPECIFIED PERFORMANCE OUTCOMES ESTABLISHED TO MEET THE STATE'S
9 POLICY OBJECTIVES AS OUTLINED IN SUBSECTION (1) OF THIS SECTION;

10 (II) IDENTIFY CHANGES TO STATE STATUTES AND THE
11 COMMISSION'S RULES THAT THE COMMISSION BELIEVES WOULD BE
12 NECESSARY OR ADVISABLE TO ACHIEVE THE GOALS OF THIS SECTION;

13 (III) ESTIMATE THE TIME REQUIRED AND ANY BUDGETARY
14 IMPACTS, INCLUDING BOTH COSTS AND SAVINGS, THAT WOULD BE
15 REQUIRED TO IMPLEMENT NEW REGULATORY AND BUSINESS STRUCTURES
16 AND APPROACHES CONTAINED IN ITS RECOMMENDATIONS; AND

17 (IV) IN THE COMMISSION'S DISCRETION, AUTHORIZE ONE OR MORE
18 PILOT PROGRAMS TO TEST THE VIABILITY AND MEASURE THE
19 EFFECTIVENESS OF ANY PROPOSED BUSINESS MODEL OR REGULATORY
20 STRUCTURE CONTEMPLATED UNDER SUBPARAGRAPHS (I) TO (III) OF THIS
21 PARAGRAPH (c).

22 (4) **Report.** (a) THE COMMISSION SHALL CONCLUDE ITS
23 INVESTIGATION UNDER SUBSECTION (3) OF THIS SECTION BY AUGUST 1,
24 2016, AND REPORT ITS FINDINGS AND RECOMMENDATIONS ON OR BEFORE
25 OCTOBER 1, 2016, TO: THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE
26 COUNCIL OF THE GENERAL ASSEMBLY; THE GOVERNOR'S OFFICE; THE
27 HOUSE COMMITTEE ON TRANSPORTATION AND ENERGY OR ITS SUCCESSOR

1 COMMITTEE; AND THE SENATE COMMITTEE ON AGRICULTURE, NATURAL
2 RESOURCES, AND ENERGY OR ITS SUCCESSOR COMMITTEE.

3 (b) IN PREPARING ITS FINDINGS AND RECOMMENDATIONS, THE
4 COMMISSION IS NOT CONFINED TO CONSIDERING ISSUES, FINDINGS, AND
5 PROPOSALS SUBMITTED BY PARTIES OR INTERVENORS AND MAY CONTRACT
6 WITH EXPERTS OF THE COMMISSION'S CHOOSING, SUBJECT TO AVAILABLE
7 RESOURCES.

8 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

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