

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0629.01 Jery Payne

SENATE BILL 08-093

SENATE SPONSORSHIP

Isgar,

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING STANDARDS FOR THE USE OF NET METERING FOR
102 CUSTOMER-GENERATORS OF COOPERATIVE ELECTRIC
103 ASSOCIATIONS.

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 requirement that a customer pay for the installation of metering equipment to participate in a net metering system. Repeals authorization for a cooperative electric association ("utility") to install additional equipment for net metering. Broadens the utility's authorization to impose a fee, beyond a backup or standby fee, on a net metering system to avoid cost shifting.

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.

Changes the threshold at which a utility may refuse to net meter additional customers from 1% of aggregated customer monthly peak demand to 1% of average monthly peak demand.

Requires a utility that net meters a customer to give retail credit for electricity generated and consumed by the customer and at least wholesale credit for electricity generated but not consumed. Requires a utility to negotiate the terms of a net metering system that exceeds 25 kilowatts. Requires a customer who generates electricity to indemnify the utility for damage done to the utility's equipment from the net metering system.

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

2 **SECTION 1.** 40-9.5-301 (4) (a), Colorado Revised Statutes, is
3 amended, and the said 40-9.5-301 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **40-9.5-301. Definitions.** As used in this part 3, unless the context
6 otherwise requires:

7 (4) "Net metering system" means a system for the generation and
8 net metering of electricity that meets each of the following requirements:

9 (a) The system uses as its energy source solar, wind, biomass,
10 GEOTHERMAL, or hydropower resources;

11 (5) "WHOLESALE ENERGY COST" MEANS THE COST PER
12 KILOWATT-HOUR, EXCLUSIVE OF DEMAND, BILLED TO AN ELECTRIC UTILITY
13 BY ITS WHOLESALE POWER PROVIDER.

14 **SECTION 2.** 40-9.5-302 (1), (2), and (3), Colorado Revised
15 Statutes, are amended to read:

16 **40-9.5-302. Net metering service.** (1) Every electric utility shall
17 establish rules and make net metering services available to any
18 customer-generator with a net metering system that the electric utility
19 serves ~~if the customer-generator pays any additional costs for the~~
20 ~~acquisition and installation of the necessary metering equipment~~ IN

1 ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 3. The
2 customer-generator also shall pay all other costs incurred by an electric
3 utility for equipment or services that are necessary to meet the safety or
4 performance standards required by section 40-9.5-304.

5 (2) ~~An electric utility may install such additional metering~~
6 ~~equipment as it deems necessary to meter electricity flow in each~~
7 ~~direction.~~

8 (3) If the total generating capacity of all customer-generators
9 using net metering systems served by an electric utility exceeds one
10 percent of the capacity necessary to meet the electric utility's ~~aggregated~~
11 ~~customer monthly peak demand~~ AVERAGE MONTHLY PEAK DEMAND for
12 ~~a particular~~ THE IMMEDIATELY PRECEDING calendar year, the electric
13 utility may elect not to provide net metering service to any additional
14 customer-generators.

15 **SECTION 3.** 40-9.5-303 (1), (2), and (4), Colorado Revised
16 Statutes, are amended to read:

17 **40-9.5-303. Rates and charges.** (1) The rates and charges for
18 retail electric service to customer-generators shall be based on the electric
19 utility's rates and charges applicable to each customer class. A just and
20 reasonable ~~backup or standby fee or~~ customer charge may be assessed to
21 avoid any cost shifting from customer-generators to other electric utility
22 customers that might result from implementation of this article.

23 (2) (a) ~~Unless the electric utility chooses to pay more to the~~
24 ~~customer-generator, the electric utility shall provide a credit to the~~
25 ~~customer-generator for its generation equal to the electric utility's avoided~~
26 ~~cost. The avoided cost shall be the average cost of power to the electric~~
27 ~~utility for the immediately preceding calendar year as published in the~~

1 utility's annual report. The average cost of power shall not include the
2 utility's own transmission, metering, and distribution costs. The average
3 cost of power shall include the capital and expense costs associated with
4 generation facilities for those utilities that generate some or all of their
5 own power needs as well as purchased capacity and energy costs. If the
6 customer-generator's net aggregate bill is less than zero, credits shall be
7 carried over to future bills of the customer-generator until the credit
8 balance is zero. A NET METERING SYSTEM SHALL GIVE THE CUSTOMER
9 RETAIL CREDIT FOR ELECTRICITY GENERATED AND CONSUMED AND AT
10 LEAST WHOLESALE CREDIT FOR ELECTRICITY GENERATED BUT NOT
11 CONSUMED IN ACCORDANCE WITH THE FOLLOWING:

12 (I) IF A CUSTOMER-GENERATOR CONSUMES MORE ELECTRICITY
13 THAN THE CUSTOMER'S NET METERING SYSTEM GENERATES DURING A
14 BILLING PERIOD, THE ELECTRIC UTILITY SHALL BILL THE
15 CUSTOMER-GENERATOR AT THE APPLICABLE TARIFF FOR THE NET
16 ELECTRICITY SUPPLIED.

17 (II) IF A CUSTOMER-GENERATOR CONSUMES LESS ELECTRICITY
18 THAN THE CUSTOMER'S NET METERING SYSTEM GENERATES DURING A
19 BILLING PERIOD, THE ELECTRIC UTILITY SHALL CREDIT THE
20 CUSTOMER-GENERATOR AN AMOUNT THAT EQUALS AT LEAST THE NET
21 ELECTRICITY SUPPLIED BY THE CUSTOMER-GENERATOR'S NET METERING
22 SYSTEM MULTIPLIED BY THE AVOIDED WHOLESALE ENERGY COST TO THE
23 ELECTRIC UTILITY.

24 (b) ANY CUSTOMER-GENERATOR THAT DESIRES TO INTERCONNECT
25 A SYSTEM IN EXCESS OF TWENTY-FIVE KILOWATTS CAPACITY AND NET
26 METER PRODUCTION AND CONSUMPTION SHALL NEGOTIATE THE TERMS
27 AND CONDITIONS OF SUCH INTERCONNECTION AND NET METERING WITH

1 THE APPROPRIATE ELECTRIC UTILITY ON AN INDIVIDUAL BASIS.

2 (4) ~~An electric utility may include in its calculation of avoided~~
3 ~~cost any fees or surcharges imposed by a taxing jurisdiction to recover~~
4 ~~revenue losses resulting from net metering~~ AN ELECTRIC UTILITY MAY
5 IMPOSE AND COLLECT A DEMAND-BASED RATE FOR ANY
6 CUSTOMER-GENERATOR THAT WISHES TO INTERCONNECT A SYSTEM WITH
7 A CAPACITY OF MORE THAN TWENTY-FIVE KILOWATTS.

8 **SECTION 4. Repeal.** 40-9.5-305, Colorado Revised Statutes, is
9 repealed as follows:

10 **40-9.5-305. No effect on existing net metering programs.** ~~The~~
11 ~~provisions of this part 3 shall not apply to the net metering program of~~
12 ~~any electric utility that was in operation before July 1, 2002, unless the~~
13 ~~electric utility chooses to amend its pre-existing programs to meet the~~
14 ~~requirements of this part 3.~~

15 **SECTION 5.** Part 3 of article 9.5 of title 40, Colorado Revised
16 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
17 read:

18 **40-9.5-307. Electric utility - hold harmless.** EVERY
19 CUSTOMER-GENERATOR SHALL INDEMNIFY AND HOLD HARMLESS EACH
20 ELECTRIC UTILITY THAT PROVIDES INTERCONNECTION TO THE
21 CUSTOMER-GENERATOR FROM ANY LIABILITY ASSOCIATED WITH THE
22 OPERATION OF THE CUSTOMER'S GENERATOR SYSTEM.

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