

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0052.01 Jennifer Berman x3286

SENATE BILL 18-064

SENATE SPONSORSHIP

Jones, Aguilar, Fenberg, Guzman, Kerr, Moreno

HOUSE SPONSORSHIP

Foote, Salazar

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN UPDATE TO THE RENEWABLE ENERGY STANDARD TO**
102 **REQUIRE THAT ALL ELECTRIC UTILITIES DERIVE THEIR ENERGY**
103 **FROM ONE HUNDRED PERCENT RENEWABLE SOURCES BY 2035.**

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://leg.colorado.gov>.)

The bill updates the renewable energy standard to require that all electric utilities, including cooperative electric associations and municipally owned utilities, derive their energy from 100% renewable sources by 2035. The bill also:

! Removes recycled energy from the types of energy sources

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! eligible for meeting the renewable energy standard;
- ! Allows a utility to obtain energy efficiency credits equal in value to renewable energy credits based on any energy efficiency upgrades made for a low-income residential customer;
- ! Removes multipliers used for counting certain renewable energy generated; and
- ! Phases out the system of tradable renewable energy credits so that renewable energy generated after 2035 is not eligible for renewable energy credits.

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

2 **SECTION 1. Short title.** The short title of this act is the
 3 "Cheaper, Cleaner Power Act".

4 **SECTION 2.** In Colorado Revised Statutes, 40-2-124, **amend** (1)
 5 introductory portion, (1)(a) introductory portion, (1)(c)(I), (1)(c)(IV),
 6 (1)(c)(V), (1)(c)(V.5), (1)(c)(IX), (1)(c)(X), (1)(d), (1)(e)(I)(A),
 7 (1)(e)(I.5), (1)(e)(II), (1)(e)(III), (1)(f)(I), (1)(f)(V), (1)(f)(VI),
 8 (1)(g)(I)(B), (1)(g)(II), (1)(g)(III), (1)(g)(IV), (1)(i), (4), (5.5), (7)(b)(II),
 9 (7)(b)(V), (8)(b), (8)(e), (8)(f), (8)(g) introductory portion, (8)(g)(II), and
 10 (8)(g)(III); and **repeal** (1)(a)(VI), (1)(c)(II)(C), (1)(c)(III), (1)(c)(VI),
 11 (1)(c)(VII), (1)(c)(VIII), (1)(f)(II), and (1)(f)(III) as follows:

12 **40-2-124. Renewable energy standards - qualifying retail and**
 13 **wholesale utilities - definitions - net metering - legislative declaration**
 14 **- rules.** (1) Each provider of retail electric service in the state of
 15 Colorado ~~other than municipally owned utilities that serve forty thousand~~
 16 ~~customers or fewer,~~ is a qualifying retail utility. ~~Each qualifying retail~~
 17 ~~utility, with the exception of cooperative electric associations that have~~
 18 ~~voted to exempt themselves from commission jurisdiction pursuant to~~
 19 ~~section 40-9.5-104 and municipally owned utilities,~~ is subject to the rules
 20 ~~established under this article by the commission.~~ No additional regulatory

1 authority is provided to the commission other than that specifically
2 contained in this section. In accordance with article 4 of title 24, ~~C.R.S.~~,
3 the commission shall revise or clarify existing rules to establish the
4 following:

5 (a) Definitions of eligible energy resources that can be used to
6 meet the standards. "Eligible energy resources" means ~~recycled energy~~
7 ~~and~~ renewable energy resources. In addition, resources using coal mine
8 methane and synthetic gas produced by pyrolysis of municipal solid waste
9 are eligible energy resources if the commission determines that the
10 electricity generated by those resources is greenhouse gas neutral. The
11 commission shall determine, following an evidentiary hearing, the extent
12 to which such electric generation technologies utilized in an optional
13 pricing program may be used to comply with this standard. A fuel cell
14 using hydrogen derived from an eligible energy resource is also an
15 eligible electric generation technology. Fossil and nuclear fuels and their
16 derivatives are not eligible energy resources. For purposes of this section:

17 (VI) ~~"Recycled energy" means energy produced by a generation~~
18 ~~unit with a nameplate capacity of not more than fifteen megawatts that~~
19 ~~converts the otherwise lost energy from the heat from exhaust stacks or~~
20 ~~pipes to electricity and that does not combust additional fossil fuel.~~
21 ~~"Recycled energy" does not include energy produced by any system that~~
22 ~~uses energy, lost or otherwise, from a process whose primary purpose is~~
23 ~~the generation of electricity, including, without limitation, any process~~
24 ~~involving engine-driven generation or pumped hydroelectricity~~
25 ~~generation.~~

26 (c) Electric resource standards:

27 (I) Except as provided in ~~subparagraph (V) of this paragraph (c)~~

1 SUBSECTION (1)(c)(V) OF THIS SECTION, the electric resource standards
2 ~~shall~~ MUST require each qualifying retail utility to generate, or cause to be
3 generated, electricity from eligible energy resources in the following
4 minimum amounts:

5 (A) Three percent of its retail electricity sales in Colorado for the
6 year 2007;

7 (B) Five percent of its retail electricity sales in Colorado for the
8 years 2008 through 2010;

9 (C) Twelve percent of its retail electricity sales in Colorado for the
10 years 2011 through 2014, with distributed generation equaling at least one
11 percent of its retail electricity sales in 2011 and 2012 and one and
12 one-fourth percent of its retail electricity sales in 2013 and 2014;

13 (D) Twenty percent of its retail electricity sales in Colorado for
14 the years 2015 through 2019, with distributed generation equaling at least
15 one and three-fourths percent of its retail electricity sales in 2015 and
16 2016 and two percent of its retail electricity sales in 2017, 2018, and
17 2019; ~~and~~

18 (E) Thirty percent of its retail electricity sales in Colorado for the
19 years 2020 ~~and thereafter~~ THROUGH 2029, with distributed generation
20 equaling at least ~~three~~ SEVEN percent of its retail electricity sales;

21 (F) SEVENTY PERCENT OF ITS RETAIL ELECTRICITY SALES IN
22 COLORADO FOR THE YEARS 2030 THROUGH 2034, WITH DISTRIBUTED
23 GENERATION EQUALING AT LEAST SEVEN PERCENT OF ITS RETAIL
24 ELECTRICITY SALES; AND

25 (G) ONE HUNDRED PERCENT OF ITS RETAIL ELECTRICITY SALES IN
26 COLORADO FOR THE YEARS 2035 AND THEREAFTER.

27 (II) (C) ~~Distributed generation amounts in the electric resource~~

1 standard for the years 2015 and thereafter may be changed by the
2 commission for the period after December 31, 2014, if the commission
3 finds, upon application by a qualifying retail utility, that these percentage
4 requirements are no longer in the public interest. If such a finding is
5 made, the commission may set the lower distributed generation
6 requirements, if any, that shall apply after December 31, 2014. If the
7 commission finds that the public interest requires an increase in the
8 distributed generation requirements, the commission shall report its
9 findings to the general assembly.

10 (III) Each kilowatt-hour of electricity generated from eligible
11 energy resources, other than retail distributed generation and other than
12 eligible energy resources beginning operation on or after January 1, 2015,
13 counts as one and one-fourth kilowatt-hours for the purposes of
14 compliance with this standard.

15 (IV) To the extent that the ability of a qualifying retail utility to
16 acquire eligible energy resources is limited by a requirements contract
17 with a wholesale electric supplier, the qualifying retail utility shall acquire
18 the maximum amount allowed by the contract. For any shortfalls to the
19 amounts established by the commission pursuant to ~~subparagraph (f) of~~
20 ~~this paragraph (c)~~ SUBSECTION (1)(c)(I) OF THIS SECTION, the qualifying
21 retail utility shall acquire an equivalent amount of either renewable
22 energy credits OR documented and verified energy savings through energy
23 efficiency and conservation programs. ~~or a combination of both. Any~~
24 ~~contract entered into by a qualifying retail utility after December 1, 2004,~~
25 ~~shall not conflict with this section.~~

26 (V) Notwithstanding any other provision of law but subject to
27 subsection (4) of this section, the electric resource standards must require

1 each cooperative electric association that is a qualifying retail utility and
2 that provides service to fewer than one hundred thousand meters, and
3 each municipally owned utility that is a qualifying retail utility, to
4 generate, or cause to be generated, electricity from eligible energy
5 resources in the following minimum amounts:

6 (A) One percent of its retail electricity sales in Colorado for the
7 years 2008 through 2010;

8 (B) Three percent of retail electricity sales in Colorado for the
9 years 2011 through 2014;

10 (C) Six percent of retail electricity sales in Colorado for the years
11 2015 through 2019; and

12 (D) ~~Ten~~ TWENTY percent of retail electricity sales in Colorado for
13 the years 2020 ~~and thereafter~~ THROUGH 2024;

14 (E) FORTY PERCENT OF ITS RETAIL ELECTRICITY SALES IN
15 COLORADO FOR THE YEARS 2025 THROUGH 2029;

16 (F) SEVENTY PERCENT OF ITS RETAIL ELECTRICITY SALES IN
17 COLORADO FOR THE YEARS 2030 THROUGH 2034; AND

18 (G) ONE HUNDRED PERCENT OF ITS RETAIL ELECTRICITY SALES IN
19 COLORADO FOR THE YEARS 2035 AND THEREAFTER.

20 (V.5) Notwithstanding any other provision of law, each
21 cooperative electric association that provides electricity at retail to its
22 customers and serves one hundred thousand or more meters shall generate
23 or cause to be generated at least THE FOLLOWING PERCENTAGES OF THE
24 ENERGY IT PROVIDES TO ITS CUSTOMERS FROM ELIGIBLE ENERGY
25 RESOURCES:

26 (A) ~~Twenty percent of the energy it provides to its customers from~~
27 ~~eligible energy resources in~~ FOR the years 2020 ~~and thereafter~~ THROUGH

1 2024;

2 (B) FORTY PERCENT FOR THE YEARS 2025 THROUGH 2029;

3 (C) SEVENTY PERCENT FOR THE YEARS 2030 THROUGH 2034; AND

4 (D) ONE HUNDRED PERCENT FOR THE YEARS 2035 AND
5 THEREAFTER.

6 (VI) ~~Each kilowatt-hour of electricity generated from eligible~~
7 ~~energy resources at a community-based project must be counted as one~~
8 ~~and one-half kilowatt-hours. For purposes of this subparagraph (VI),~~
9 ~~"community-based project" means a project:~~

10 (A) ~~That is owned by individual residents of a community, by an~~
11 ~~organization or cooperative that is controlled by individual residents of~~
12 ~~the community, or by a local government entity or tribal council;~~

13 (B) ~~The generating capacity of which does not exceed thirty~~
14 ~~megawatts; and~~

15 (C) ~~For which there is a resolution of support adopted by the local~~
16 ~~governing body of each local jurisdiction in which the project is to be~~
17 ~~located.~~

18 (VII) (A) ~~For purposes of compliance with the standards set forth~~
19 ~~in subparagraphs (V) and (V.5) of this paragraph (c), each kilowatt-hour~~
20 ~~of renewable electricity generated from solar electric generation~~
21 ~~technologies shall be counted as three kilowatt-hours.~~

22 (B) ~~For each qualifying retail utility that is a cooperative electric~~
23 ~~association, sub-subparagraph (A) of this subparagraph (VII) applies only~~
24 ~~to solar electric technologies that begin producing electricity prior to July~~
25 ~~1, 2015, and for solar electric technologies that begin producing~~
26 ~~electricity on or after July 1, 2015, each kilowatt-hour of renewable~~
27 ~~electricity shall be counted as one kilowatt-hour for purposes of~~

1 compliance with the renewable energy standard.

2 ~~(C) For each qualifying retail utility that is a municipally owned~~
3 ~~utility, sub-subparagraph (A) of this subparagraph (VII) applies only to~~
4 ~~solar electric technologies that are under contract for development prior~~
5 ~~to August 1, 2015, and begin producing electricity prior to December 31,~~
6 ~~2016, and for solar electric technologies that are not under contract for~~
7 ~~development prior to August 1, 2015, and begin producing electricity on~~
8 ~~or after December 31, 2016, each kilowatt-hour of renewable electricity~~
9 ~~shall be counted as one kilowatt-hour for purposes of compliance with the~~
10 ~~renewable energy standard.~~

11 ~~(VIII) Electricity from eligible energy resources shall be subject~~
12 ~~to only one of the methods for counting kilowatt-hours set forth in~~
13 ~~subparagraphs (III), (VI), and (VII) of this paragraph (c).~~

14 (IX) For purposes of stimulating rural economic development and
15 for projects up to thirty megawatts of nameplate capacity that have a point
16 of interconnection rated at sixty-nine kilovolts or less, each kilowatt-hour
17 of electricity generated from renewable energy resources that
18 interconnects to electric transmission or distribution facilities owned by
19 a cooperative electric association or municipally owned utility may be
20 counted for the life of the project as two kilowatt-hours for compliance
21 with the requirements of this ~~paragraph (c)~~ SUBSECTION (1)(c) by
22 qualifying retail utilities. This multiplier shall not be claimed for
23 interconnections that first occur after December 31, ~~2014~~ 2025, and shall
24 not be used in conjunction with another compliance multiplier. For
25 qualifying retail utilities other than investor-owned utilities, the benefits
26 described in this ~~subparagraph (IX)~~ SUBSECTION (1)(c)(IX) apply only to
27 the aggregate first one hundred megawatts of nameplate capacity of

1 projects statewide that report having achieved commercial operations to
2 the commission pursuant to the procedure described in this ~~subparagraph~~
3 ~~(IX)~~ SUBSECTION (1)(c)(IX). To the extent that a qualifying retail utility
4 claims the benefit described in this ~~subparagraph~~ ~~(IX)~~ SUBSECTION
5 (1)(c)(IX), those kilowatt-hours of electricity do not qualify for
6 satisfaction of the distributed generation requirement of ~~subparagraph (f)~~
7 ~~of this paragraph (c)~~ SUBSECTION (1)(c)(I) OF THIS SECTION. The
8 commission shall analyze the implementation of this ~~subparagraph (IX)~~
9 SUBSECTION (1)(c)(IX) and submit a report to the senate ~~local government~~
10 AGRICULTURE, NATURAL RESOURCES, and energy committee and the
11 house of representatives committee on transportation and energy, or their
12 successor committees, ~~by~~ ON OR BEFORE December 31, ~~2011~~ 2022, AND
13 AGAIN ON OR BEFORE DECEMBER 31, 2030, regarding implementation of
14 this ~~subparagraph (IX)~~ SUBSECTION (1)(c)(IX), including how many
15 megawatts of electricity have been installed or are subject to a power
16 purchase agreement pursuant to this ~~subparagraph (IX)~~ SUBSECTION
17 (1)(c)(IX) and whether the commission recommends that the multiplier
18 established by this ~~subparagraph (IX)~~ SUBSECTION (1)(c)(IX) should be
19 changed either in magnitude or expiration date. Any entity that owns or
20 develops a project that will take advantage of the benefits of this
21 ~~subparagraph (IX)~~ SUBSECTION (1)(c)(IX) shall notify the commission
22 within thirty days after signing a power purchase agreement and within
23 thirty days after beginning commercial operations of an applicable
24 project.

25 (X) Of the minimum amounts of electricity required to be
26 generated or caused to be generated by qualifying retail utilities in
27 accordance with ~~subparagraph (V.5)~~ and ~~sub-subparagraph (D)~~ of

1 ~~subparagraph (V) of this paragraph (c)~~ SUBSECTIONS (1)(c)(V)(D) AND
2 (1)(c)(V.5) OF THIS SECTION, ~~one-tenth or one percent of total retail~~
3 ~~electricity sales~~, must be from distributed generation; except that:

4 (A) For a cooperative electric association that is a qualifying retail
5 utility and that provides service to fewer than ten thousand meters, the
6 distributed generation component may be three-quarters of ~~one percent of~~
7 ~~total retail electricity sales~~ THE AMOUNT OTHERWISE REQUIRED BY THIS
8 SUBSECTION (1)(c)(X); and

9 (B) This ~~subparagraph (X)~~ SUBSECTION (1)(c)(X) does not apply
10 to a qualifying retail utility that is a municipal utility.

11 (d) (I) A system of tradable renewable energy credits that may be
12 used by a qualifying retail utility to comply with this standard. ~~The~~
13 ~~commission shall also analyze the effectiveness of utilizing any regional~~
14 ~~system of renewable energy credits in existence at the time of its~~
15 ~~rule-making process and determine whether the system is governed by~~
16 ~~rules that are consistent with the rules established for this article~~ FOR
17 RENEWABLE ENERGY SOURCES PUT INTO SERVICE ON OR AFTER JANUARY
18 1, 2021, RENEWABLE ENERGY GENERATED FROM THE SOURCES IS NOT
19 ELIGIBLE FOR RENEWABLE ENERGY CREDITS. FOR RENEWABLE ENERGY
20 SOURCES PUT INTO SERVICE ON OR BEFORE DECEMBER 31, 2020,
21 QUALIFIED UTILITIES MAY PURCHASE RENEWABLE ENERGY CREDITS AT THE
22 FOLLOWING RATES:

23 (A) RENEWABLE ENERGY GENERATED IN THE YEARS BEFORE 2020
24 MAY BE PURCHASED WITH A VALUE OF ONE MEGAWATT FOR ONE
25 MEGAWATT OF CREDIT;

26 (B) RENEWABLE ENERGY GENERATED IN THE YEARS 2020
27 THROUGH 2023 MAY BE PURCHASED WITH A VALUE OF ONE MEGAWATT

1 FOR FOUR-FIFTHS OF A MEGAWATT OF CREDIT;

2 (C) RENEWABLE ENERGY GENERATED IN THE YEARS 2024
3 THROUGH 2027 MAY BE PURCHASED WITH A VALUE OF ONE MEGAWATT
4 FOR THREE-FIFTHS OF A MEGAWATT OF CREDIT;

5 (D) RENEWABLE ENERGY GENERATED IN THE YEARS 2028
6 THROUGH 2031 MAY BE PURCHASED WITH A VALUE OF ONE MEGAWATT
7 FOR TWO-FIFTHS OF A MEGAWATT OF CREDIT;

8 (E) RENEWABLE ENERGY GENERATED IN THE YEARS 2032
9 THROUGH 2034 MAY BE PURCHASED WITH A VALUE OF ONE MEGAWATT
10 FOR ONE-FIFTH OF A MEGAWATT OF CREDIT; AND

11 (F) RENEWABLE ENERGY GENERATED AFTER THE YEAR 2035 IS
12 NOT ELIGIBLE FOR CREDITS.

13 (II) The commission shall not restrict the qualifying retail utility's
14 ownership of renewable energy credits if the qualifying retail utility
15 complies with the electric resource standard of ~~paragraph (c) of this~~
16 ~~subsection (1)~~ SUBSECTION (1)(c) OF THIS SECTION, uses definitions of
17 eligible energy resources that are limited to those identified in ~~paragraph~~
18 ~~(a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, as clarified
19 by the commission. ~~and does not exceed the retail rate impact established~~
20 ~~by paragraph (g) of this subsection (1)~~. Once a qualifying retail utility
21 either receives a permit pursuant to article 7 or 8 of title 25 ~~C.R.S.~~, for a
22 generation facility that relies on or is affected by the definitions of
23 eligible energy resources or enters into a contract that relies on or is
24 affected by the definitions of eligible energy resources, ~~such~~ THE
25 definitions apply to the contract or facility notwithstanding any
26 subsequent alteration of the definitions, whether by statute or rule. For
27 purposes of compliance with the renewable energy standard, if a

1 generation system uses a combination of fossil fuel and eligible
2 renewable energy resources to generate electricity, a qualified retail utility
3 that is not an investor-owned utility may count as eligible renewable
4 energy only the proportion of the total electric output of the generation
5 system that results from the use of eligible renewable energy resources.

6 (e) A standard rebate offer program, under which:

7 (I)(A) Each qualifying retail utility ~~except for cooperative electric~~
8 ~~associations and municipally owned utilities,~~ shall make available to its
9 retail electricity customers a standard rebate offer of a specified amount
10 per watt for the installation of eligible solar electric generation on
11 customers' premises up to a maximum of one hundred kilowatts per
12 installation.

13 (I.5) The amount of the standard rebate offer ~~shall be two dollars~~
14 ~~per watt, except that the commission may set the rebate at a lower amount~~
15 ~~if the commission determines, based upon a qualifying retail utility's~~
16 ~~renewable resource plan or application, that market changes support the~~
17 ~~change~~ MUST EQUAL THE QUALIFYING RETAIL UTILITY'S EXISTING RETAIL
18 ELECTRICITY RATE.

19 (II) Sales of electricity to a consumer may be made by the owner
20 or operator of the solar electric generation facilities located on the site of
21 the consumer's property if the solar generating equipment is sized to
22 supply no more than one hundred twenty percent of the average annual
23 consumption of electricity by the consumer at that site. For purposes of
24 this ~~subparagraph (H)~~ SUBSECTION (1)(e)(II), the consumer's site ~~shall~~
25 ~~include~~ INCLUDES all contiguous property owned or leased by the
26 consumer, without regard to interruptions in contiguity caused by
27 easements, public thoroughfares, transportation rights-of-way, or utility

1 rights-of-way. If the solar electric generation facility is not owned by the
2 consumer, then the COMMISSION SHALL NOT REQUIRE THE qualifying retail
3 utility ~~shall not be required by the commission~~ to pay for the renewable
4 ~~energy credits~~ ENERGY generated by the facility on any basis other than
5 a metered basis. The owner or operator of the solar electric generation
6 facility shall pay the cost of installing the production meter.

7 (III) The qualifying retail utility may establish one or more
8 standard offers to purchase renewable energy credits generated from the
9 eligible solar electric generation on the customer's premises ~~so long as~~ IF
10 the generation meets the size and location requirements set forth in
11 ~~subparagraph (H) of this paragraph (e)~~ SUBSECTION (1)(c)(II) OF THIS
12 SECTION and ~~so long as~~ the generation is five hundred kilowatts or less in
13 size. When establishing the standard offers, the prices for renewable
14 energy credits should be set at levels sufficient to encourage increased
15 customer-sited solar generation in the size ranges covered by each
16 standard offer, but at levels that will still allow the qualifying retail utility
17 to comply with the electric resource standards set forth in ~~paragraph (e)~~
18 ~~of this subsection (1) without exceeding the retail rate impact limit in~~
19 ~~paragraph (g) of this subsection (1)~~ SUBSECTION (1)(c) OF THIS SECTION.
20 The commission shall encourage qualifying retail utilities to design solar
21 programs that allow consumers of all income levels to obtain the benefits
22 offered by solar electricity generation and shall allow programs that are
23 designed to extend participation to customers in market segments that
24 have not been responding to the standard offer program.

25 (f) Policies for the recovery of costs incurred with respect to these
26 standards for qualifying retail utilities that are subject to rate regulation
27 by the commission. These policies must provide incentives to qualifying

1 retail utilities to invest in eligible energy resources and must include:

2 (I) Allowing a qualifying retail utility to develop and own as
3 utility rate-based property up to twenty-five percent of the total new
4 eligible energy resources the utility acquires from entering into power
5 purchase agreements and from developing and owning resources after
6 March 27, 2007, if the new eligible energy resources proposed to be
7 developed and owned by the utility can be constructed at reasonable cost
8 compared to the cost of similar eligible energy resources available in the
9 market. The qualifying retail utility ~~shall be allowed to~~ MAY develop and
10 own as utility rate-based property more than twenty-five percent but not
11 more than fifty percent of total new eligible energy resources acquired
12 after March 27, 2007, if the qualifying retail utility shows that its proposal
13 would provide significant economic development, employment, energy
14 security, or other benefits to the state of Colorado. The qualifying retail
15 utility may develop and own these resources either by itself or jointly with
16 other owners, and, if owned jointly, the entire jointly owned resource
17 ~~shall count~~ COUNTS toward the percentage limitations in this
18 subparagraph (I). ~~For the resources addressed in this subparagraph (I), the~~
19 ~~qualifying retail utility shall not be required to comply with the~~
20 ~~competitive bidding requirements of the commission's rules; except that~~
21 ~~nothing in this subparagraph (I) shall preclude the qualifying retail utility~~
22 ~~from bidding to own a greater percentage of new eligible energy~~
23 ~~resources than permitted by this subparagraph (I)~~ SUBSECTION (1)(f)(I).
24 In addition, nothing in this subparagraph (I) ~~shall prevent~~ SUBSECTION
25 (1)(f)(I) PREVENTS the commission from waiving, repealing, or revising
26 any commission rule in a manner otherwise consistent with applicable
27 law.

1 (II) ~~Allowing qualifying retail utilities to earn an extra profit on~~
2 ~~their investment in eligible energy resource technologies if these~~
3 ~~investments provide net economic benefits to customers as determined by~~
4 ~~the commission. The allowable extra profit in any year shall be the~~
5 ~~qualifying retail utility's most recent commission authorized rate of return~~
6 ~~plus a bonus limited to fifty percent of the net economic benefit.~~

7 (III) ~~Allowing qualifying retail utilities to earn their most recent~~
8 ~~commission authorized rate of return, but no bonus, on investments in~~
9 ~~eligible energy resource technologies if these investments do not provide~~
10 ~~a net economic benefit to customers.~~

11 (V) If the commission approves the terms and conditions of an
12 eligible energy resource contract between the qualifying retail utility and
13 another party, the contract and its terms and conditions shall be deemed
14 to be a prudent investment, and the commission shall approve retail rates
15 sufficient to recover all just and reasonable costs associated with the
16 contract. All contracts for acquisition of eligible energy resources shall
17 MUST have a minimum term of twenty years; except that the SELLER MAY
18 SHORTEN THE contract term. ~~may be shortened at the sole discretion of the~~
19 ~~seller. All contracts for the acquisition of renewable energy credits from~~
20 ~~solar electric technologies located on site at customer facilities shall also~~
21 ~~have a minimum term of twenty years; except that such contracts for~~
22 ~~systems of between one hundred kilowatts and one megawatt may have~~
23 ~~a different term if mutually agreed to by the parties.~~

24 (VI) A requirement that qualifying retail utilities consider
25 proposals offered by third parties for the sale of renewable energy. ~~or~~
26 ~~renewable energy credits.~~ The commission may develop standard terms
27 for the submission of ~~such~~ THE proposals.

1 (g) Retail rate impact rule:

2 (I) ~~(B) If the retail rate impact does not exceed the maximum~~
3 ~~impact permitted by this paragraph (g),~~ The qualifying utility may acquire
4 more than the minimum amount of eligible energy resources and
5 renewable energy credits required by this section. At the request of the
6 qualifying retail utility and upon the commission's approval, the
7 qualifying retail utility may advance funds from year to year to augment
8 the amounts collected from retail customers under this ~~paragraph (g)~~
9 SUBSECTION (1)(g) for the acquisition of more eligible energy resources.
10 ~~Such~~ IF THE RETAIL RATE IMPACT DOES NOT EXCEED TWO PERCENT OF THE
11 TOTAL ANNUAL ELECTRIC BILL FOR EACH CUSTOMER, THE funds shall be
12 repaid from future retail rate collections, with interest calculated at the
13 qualifying retail utility's after-tax weighted average cost of capital. ~~so~~
14 ~~long as the retail rate impact does not exceed two percent of the total~~
15 ~~annual electric bill for each customer.~~

16 (II) Each wholesale energy provider shall offer to its wholesale
17 customers that are cooperative electric associations the opportunity to
18 purchase their load ratio share of the wholesale energy provider's
19 electricity from eligible energy resources. If a wholesale customer agrees
20 to pay the full costs associated with the acquisition of eligible energy
21 resources ~~and associated renewable energy credits~~ by its wholesale
22 provider by providing notice of its intent to pay the full costs within sixty
23 days after the wholesale provider extends the offer, the wholesale
24 customer ~~shall be entitled to~~ MAY receive the appropriate credit toward
25 the renewable energy standard as well as any associated renewable energy
26 credits. To the extent that the full costs are not recovered from wholesale
27 customers, a qualifying retail utility ~~shall be entitled to~~ MAY recover those

1 costs from retail customers.

2 (III) ~~Subject to the maximum retail rate impact permitted by this~~
3 ~~paragraph (g),~~ The qualifying retail utility ~~shall have the discretion to~~
4 MAY determine, in a nondiscriminatory manner, the price it will pay for
5 renewable energy credits from on-site customer facilities that are no
6 larger than five hundred kilowatts.

7 (IV) (A) ~~For cooperative electric associations, the maximum retail~~
8 ~~rate impact for this section is two percent of the total electric bill annually~~
9 ~~for each customer.~~

10 (B) ~~Notwithstanding subparagraph (I) of this paragraph (g),~~ The
11 commission may ensure that customers who install distributed generation
12 continue to contribute, in a nondiscriminatory fashion, their fair share to
13 their utility's renewable energy program fund or equivalent renewable
14 energy support mechanism. ~~even if such contribution results in a charge~~
15 ~~that exceeds two percent of such customers' annual electric bills.~~

16 (i) Rules necessary for the administration of this ~~article~~ ARTICLE
17 2 including enforcement mechanisms necessary to ensure that each
18 qualifying retail utility complies with this standard, and provisions
19 governing the imposition of administrative penalties assessed after a
20 hearing held by the commission pursuant to section 40-6-109. ~~The~~
21 ~~commission shall exempt a qualifying retail utility from administrative~~
22 ~~penalties for an individual compliance year if the utility demonstrates that~~
23 ~~the retail rate impact cap described in paragraph (g) of this subsection (1)~~
24 ~~has been reached and the utility has not achieved full compliance with~~
25 ~~paragraph (c) of this subsection (1).~~ The qualifying retail utility's actions
26 under an approved compliance plan shall carry a rebuttable presumption
27 of prudence. Under no circumstances shall the costs of administrative

1 penalties be recovered from Colorado retail customers.

2 (4) For municipal utilities that become qualifying retail utilities
3 after December 31, 2006, the percentage requirements identified in
4 ~~subparagraph (V) of paragraph (c) of subsection (1)~~ SUBSECTION
5 (1)(c)(V) of this section shall begin in the first calendar year following
6 qualification as follows:

7 (a) Years one through three: One percent of retail electricity sales;

8 (b) Years four through seven: Three percent of retail electricity
9 sales;

10 (c) Years eight through twelve: Six percent of retail electricity
11 sales; and

12 (d) Years thirteen ~~and thereafter~~ THROUGH SIXTEEN: Ten percent
13 of retail electricity sales;

14 (e) YEARS SEVENTEEN THROUGH TWENTY: TWENTY PERCENT OF
15 RETAIL ELECTRICITY SALES, AND ADDITIONAL CAPACITY MAY ONLY BE
16 PRODUCED FROM RENEWABLE ENERGY SOURCES;

17 (f) YEARS TWENTY-ONE THROUGH TWENTY-FOUR: FORTY PERCENT
18 OF RETAIL ELECTRICITY SALES, AND ADDITIONAL CAPACITY MAY ONLY BE
19 PRODUCED FROM RENEWABLE ENERGY SOURCES;

20 (g) YEARS TWENTY-FIVE THROUGH TWENTY-EIGHT: SIXTY
21 PERCENT OF RETAIL ELECTRICITY SALES, AND ADDITIONAL CAPACITY MAY
22 ONLY BE PRODUCED FROM RENEWABLE ENERGY SOURCES;

23 (h) YEARS TWENTY-NINE THROUGH THIRTY-TWO: EIGHTY PERCENT
24 OF RETAIL ELECTRICITY SALES, AND ADDITIONAL CAPACITY MAY ONLY BE
25 PRODUCED FROM RENEWABLE ENERGY SOURCES; AND

26 (i) YEARS THIRTY-THREE AND THEREAFTER: ONE HUNDRED
27 PERCENT OF RETAIL ELECTRICITY SALES.

1 (5.5) Each cooperative electric association that is a qualifying
2 retail utility shall submit an annual compliance report to the commission
3 no later than June 1 of each year in which the cooperative electric
4 association is subject to the renewable energy standard requirements
5 established in this section. The annual compliance report ~~shall~~ MUST
6 describe the steps taken by the cooperative electric association to comply
7 with the renewable energy standards and ~~shall~~ MUST include the same
8 information set forth in the rules of the commission for jurisdictional
9 utilities. ~~Cooperative electric associations shall not be subject to any part~~
10 ~~of the compliance report review process as provided in the rules for~~
11 ~~jurisdictional utilities. Cooperative electric associations shall not be~~
12 ~~required to obtain commission approval of annual compliance reports,~~
13 ~~and no additional regulatory authority of the commission other than that~~
14 ~~specifically contained in this subsection (5.5) is created or implied by this~~
15 ~~subsection (5.5).~~

16 (7) (b) Each municipally owned utility shall allow a
17 customer-generator's retail electricity consumption to be offset by the
18 electricity generated from eligible energy resources on the
19 customer-generator's side of the meter that are interconnected with the
20 facilities of the municipally owned utility, subject to the following:

21 (II) **Annual excess generation.** Within sixty days after the end of
22 each annual period, or within sixty days after the customer-generator
23 terminates its retail service, the municipally owned utility shall account
24 for any excess energy generation, expressed in kilowatt-hours, accrued by
25 the customer-generator and shall credit ~~such~~ THE excess generation to the
26 customer-generator ~~in a manner deemed appropriate by the municipally~~
27 ~~owned utility~~ AT THE AVERAGE RETAIL ELECTRICITY RATE CHARGED TO

1 THAT CUSTOMER DURING THE PREVIOUS YEAR.

2 (V) **Size specifications.** Each municipally owned utility may
3 allow customer-generators to generate electricity subject to net metering
4 ~~in amounts in excess of those specified in this subparagraph (V), and shall~~
5 ~~allow:~~ WITHOUT LIMIT.

6 ~~(A) Residential customer-generators to generate electricity subject~~
7 ~~to net metering up to ten kilowatts; and~~

8 ~~(B) Commercial or industrial customer-generators to generate~~
9 ~~electricity subject to net metering up to twenty-five kilowatts.~~

10 (8) **Qualifying wholesale utilities - definition - electric resource**
11 **standard - tradable credits - reports. (b) Electric resource standard.**

12 Notwithstanding any other provision of law, each qualifying wholesale
13 utility shall generate, or cause to be generated, ~~at least twenty~~ ONE
14 HUNDRED percent of the energy it provides to its Colorado members at
15 wholesale from eligible energy resources in the year ~~2020~~ 2035 and
16 thereafter. ~~If, and to the extent that, the purchase of energy generated~~
17 ~~from eligible energy resources by a Colorado member from a qualifying~~
18 ~~wholesale utility would cause an increase in rates for the Colorado~~
19 ~~member that exceeds the retail rate impact limitation in sub-subparagraph~~
20 ~~(A) of subparagraph (IV) of paragraph (g) of subsection (1) of this~~
21 ~~section, the obligation imposed on the qualifying wholesale utility is~~
22 ~~reduced by the amount of such energy necessary to enable the Colorado~~
23 ~~member to comply with the rate impact limitation.~~

24 (e) **Tradable renewable energy credits.** A qualifying wholesale
25 utility shall use a system of tradable renewable energy credits to comply
26 with the electric resource standard established in this subsection (8).
27 ~~except that a renewable energy credit acquired under this subsection (8)~~

1 expires at the end of the fifth calendar year following the calendar year
2 in which it was generated.

3 (f) In implementing the electric resource standard established in
4 this subsection (8), a qualifying wholesale utility shall assure that the
5 costs, both direct and indirect, attributable to compliance with the
6 standard are recovered from its Colorado members. ~~The qualifying
7 wholesale utility shall employ such cost allocation methods as are
8 required to assure that any direct or indirect costs attributable to
9 compliance with the standard established in this subsection (8) do not
10 affect the cost or price of the qualifying wholesale utility's sales to
11 customers outside of Colorado.~~

12 (g) **Reports.** Each qualifying wholesale utility THAT IS AN
13 INVESTOR-OWNED UTILITY OR A COOPERATIVE ELECTRIC ASSOCIATION
14 shall submit an annual report to the commission no later than June 1,
15 2014, and June 1 of each year thereafter. In addition, the qualifying
16 wholesale utility shall post an electronic copy of each report on its
17 website and shall provide the commission with an electronic copy of the
18 report. In each report, the qualifying wholesale utility shall:

19 (II) In the years before ~~2020~~ 2035, describe whether it is making
20 sufficient progress toward meeting the standard in ~~2020~~ 2035 or is likely
21 to meet the ~~2020~~ 2035 standard early. If it is not making sufficient
22 progress toward meeting the standard in ~~2020~~ 2035, it shall explain why
23 and shall indicate the steps it intends to take to increase the pace of
24 progress; and

25 (III) In ~~2020~~ 2035 and thereafter, describe whether it has achieved
26 compliance with the electric resource standard established in this
27 subsection (8) and whether it anticipates continuing to do so. If it has not

1 achieved such compliance or does not anticipate continuing to do so, it
2 shall explain why and shall indicate the steps it intends to take to meet the
3 standard and by what date.

4 **SECTION 3.** In Colorado Revised Statutes, 30-20-602, **amend**
5 (4.7)(b) introductory portion as follows:

6 **30-20-602. Definitions.** (4.7) (b) ~~No~~ A renewable energy
7 improvement ~~shall be authorized~~ that interferes with a right held by a
8 public utility under a certificate issued by the public utilities commission
9 under article 5 of title 40 ~~C.R.S.~~ SHALL NOT BE AUTHORIZED. Nothing in
10 this part 6 limits the right of a public utility, subject to article 3 or 3.5 of
11 title 40 ~~C.R.S.~~, or section 40-9.5-106, ~~C.R.S.~~, to assess fees for the use of
12 its facilities, or modifies or expands ~~the~~ net metering ~~limitations~~ AS
13 established in sections 40-2-124 (7) and 40-9.5-118. ~~C.R.S.~~ Primary
14 jurisdiction to hear any disputes concerning whether a renewable energy
15 improvement interferes with such a right ~~shall lie~~ LIES:

16 **SECTION 4. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2018 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.