

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0841.02 Jennifer Berman x3286

HOUSE BILL 20-1225

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HOUSE SPONSORSHIP

Weissman,

SENATE SPONSORSHIP

(None),

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House Committees  
Energy & Environment

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING CLARIFICATION OF THE REQUIREMENT OF  
102 REASONABLENESS IN CHARGES IMPOSED BY ONE COOPERATIVE  
103 ELECTRIC ASSOCIATION UPON ANOTHER.

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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:

! Declares that the jurisdiction of the Colorado public utilities commission does and traditionally has always been understood to extend to the determination of just and reasonable rates by all public utilities; and

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.

! Explicitly states that the terms and conditions imposed by one cooperative electric association on another regarding the installation, interconnection, and use of energy storage systems must be just and reasonable.

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

2 **SECTION 1. Legislative declaration.** (1) The General  
3 Assembly finds and determines that:

4 (a) Article XXV of the Colorado Constitution vests "all power to  
5 regulate the facilities, service and rates and charges" of public utilities in  
6 the public utilities commission;

7 (b) Since at least 1913, the laws of Colorado have directed the  
8 public utilities commission to "prevent unjust...rates, charges, and tariffs"  
9 of public utilities;

10 (c) The Colorado Supreme Court has held that "the Commission  
11 possesses not only the power and authority, but also the duty to prescribe  
12 the rates of all utilities subject to its jurisdiction";

13 (d) Since at least 1944, United States Supreme Court cases have  
14 emphasized that utility rates must be "just and reasonable", regardless of  
15 the specific methodology by which rates are established; and

16 (e) The public utilities commission has previously determined that  
17 it possesses jurisdiction to adjudicate a complaint concerning just and  
18 reasonable "exit" charges assessed by a wholesale electric cooperative  
19 against a retail electric cooperative.

20 (2) Therefore, the general assembly declares that the purpose of  
21 this act is to further clarify and affirm the long-standing authority of the  
22 Colorado public utilities commission to adjudicate complaints concerning  
23 public utilities subject to its jurisdiction.

1           **SECTION 2.** In Colorado Revised Statutes, 40-1-102, **add** (1.3)  
2 as follows:

3           **40-1-102. Definitions.** As used in articles 1 to 7 of this title 40,  
4 unless the context otherwise requires:

5           (1.3) "CHARGE" INCLUDES ANY CONSIDERATION, HOWEVER  
6 DENOMINATED, PAID OR PROVIDED BY A RETAIL COOPERATIVE ELECTRIC  
7 ASSOCIATION TO A WHOLESALE COOPERATIVE ELECTRIC ASSOCIATION IN  
8 CONNECTION WITH AN AGREEMENT BY WHICH THE RETAIL COOPERATIVE  
9 ELECTRIC ASSOCIATION TERMINATES A WHOLESALE ELECTRIC SERVICE  
10 CONTRACT WITH THE WHOLESALE COOPERATIVE ELECTRIC ASSOCIATION.

11           **SECTION 3.** In Colorado Revised Statutes, **add** 40-2-136 as  
12 follows:

13           **40-2-136. Energy storage systems - terms and conditions for**  
14 **installation, interconnection, and use by cooperatives - legislative**  
15 **declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY FINDS AND  
16 DETERMINES THAT:

17           (I) CARDINAL PRINCIPLES OF COOPERATIVE ELECTRIC  
18 ASSOCIATIONS INCLUDE DEMOCRATIC MEMBER CONTROL, AUTONOMY,  
19 AND INDEPENDENCE; AND

20           (II) RAPIDLY EVOLVING TECHNOLOGIES IN GENERATION, ENERGY  
21 STORAGE, AND DEMAND MANAGEMENT OFFER COOPERATIVE ELECTRIC  
22 ASSOCIATIONS A VARIETY OF OPTIONS TO MEET THE NEEDS OF THEIR  
23 MEMBERS RELIABLY.

24           (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

25           (I) IT IS IN THE PUBLIC INTEREST TO LIMIT BARRIERS TO THE  
26 INSTALLATION, INTERCONNECTION, AND USE OF ENERGY STORAGE  
27 SYSTEMS BY COOPERATIVE ELECTRIC ASSOCIATIONS IN COLORADO; AND

1 (II) COOPERATIVE ELECTRIC ASSOCIATIONS IN COLORADO SHOULD  
2 BE ABLE TO INSTALL, INTERCONNECT, AND USE ENERGY STORAGE SYSTEMS  
3 AS PART OF MEETING THEIR MEMBERS' NEEDS FOR RELIABLE, AFFORDABLE  
4 ENERGY WITHOUT UNFAIR OR DISCRIMINATORY RATES OR FEES.

5 (2) A WHOLESALE ELECTRIC COOPERATIVE SHALL NOT SUBJECT  
6 THE INSTALLATION, INTERCONNECTION, OR USE OF AN ENERGY STORAGE  
7 SYSTEM BY A RETAIL COOPERATIVE ELECTRIC ASSOCIATION TO ANY  
8 UNJUST, UNREASONABLE, DISCRIMINATORY, OR PREFERENTIAL CHARGE,  
9 CLASSIFICATION, CONTRACT, FARE, FEE, PRACTICE, RATE, REGULATION,  
10 RULE, SCHEDULE, SERVICE, OR TOLL.

11 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
12 REQUIRES:

13 (a) "COOPERATIVE ELECTRIC ASSOCIATION" MEANS A NONPROFIT  
14 ELECTRIC CORPORATION OR ASSOCIATION OTHER THAN A WHOLESALE  
15 ELECTRIC COOPERATIVE.

16 (b) "ENERGY STORAGE SYSTEM" HAS THE MEANING SET FORTH IN  
17 SECTION 40-2-202 (2).

18 (c) "WHOLESALE ELECTRIC COOPERATIVE" MEANS ANY  
19 GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC ASSOCIATION  
20 THAT PROVIDES WHOLESALE ELECTRIC SERVICE DIRECTLY TO  
21 COOPERATIVE ELECTRIC ASSOCIATIONS.

22 **SECTION 4. Safety clause.** The general assembly hereby finds,  
23 determines, and declares that this act is necessary for the immediate  
24 preservation of the public peace, health, or safety.