

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0707.01 Jennifer Berman x3286

HOUSE BILL 25-1177

HOUSE SPONSORSHIP

Mauro, Bird, Martinez

SENATE SPONSORSHIP

Hinrichsen and Pelton B., Roberts

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ADJUSTMENTS TO THE ECONOMIC DEVELOPMENT RATE**
102 **TARIFF.**

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>.)

Under current law, an investor-owned electric utility (utility) may apply to the public utilities commission (commission) for approval to charge certain commercial or industrial customers of the utility an economic development rate (economic development rate), which is a reduced rate offered to a commercial or industrial customer that locates or expands their operations in Colorado, that adds at least 3 megawatts of

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

new load at a single location within the utility's service territory, and that demonstrates certain other requirements to the satisfaction of the utility (qualifying commercial or industrial customer).

The bill makes adjustments to the economic development rate tariff by:

- Authorizing the utility to apply to the commission for an expansion of the maximum duration of the economic development rate from 10 years to 25 years;
- Expanding the maximum load at a single location of a qualifying commercial or industrial customer for an individual project that does not require commission approval from 20 megawatts to 40 megawatts; and
- Updating the application process required for seeking approval of an economic development rate by requiring that the commission:
 - Approve or deny an application within 120 days after a notice period of 14 business days after the application was filed; and
 - Consider the broader economic benefits associated with the application for other classes of utility customers and for the surrounding community.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-3-104.3, **amend**
3 (6)(b)(I), (6)(b)(II)(B), (6)(b)(III), (6)(c)(I), (6)(d)(I) introductory portion,
4 (6)(d)(II) introductory portion, (6)(d)(II)(A), (7), and (8); and **add**
5 (6)(c)(IV), (6)(c)(V), and (6)(c)(VI) as follows:

6 **40-3-104.3. Manner of regulation - competitive responses -**
7 **economic development rate - definitions - repeal.** (6) (b) (I) (A) An
8 economic development rate approved pursuant to this section MUST BE IN
9 THE PUBLIC INTEREST AND must be lower than the rate or rates that the
10 qualifying commercial or industrial customer would be or currently is
11 subject to under the INVESTOR-OWNED ELECTRIC utility's tariffs in effect
12 at the time the qualifying commercial or industrial customer seeks to
13 qualify for the economic development rate; except that an economic

1 development rate must not be lower than the utility's marginal cost of
2 providing service to the qualifying commercial or industrial customer. AN
3 ECONOMIC DEVELOPMENT RATE MUST NOT DIRECTLY INCREASE COSTS OF
4 ELECTRIC SERVICE FOR OTHER CUSTOMERS.

5 (B) AN ECONOMIC DEVELOPMENT RATE APPROVED PURSUANT TO
6 THIS SECTION DOES NOT RELIEVE AN INVESTOR-OWNED ELECTRIC UTILITY
7 OF ITS ABILITY TO ACHIEVE COMPLIANCE WITH GREENHOUSE GAS EMISSION
8 REDUCTION REQUIREMENTS.

9 (II) (B) Notwithstanding subsection (6)(b)(II)(A) of this section,
10 the INVESTOR-OWNED ELECTRIC utility may negotiate and enter into
11 agreements related to economic development rates with individual
12 qualifying commercial or industrial customers without commission
13 approval so long as the agreed-upon economic development rate complies
14 with the commission-approved tariff and the addition or expansion of
15 existing load at a single location is less than or equal to ~~twenty~~ FORTY
16 megawatts. IN APPROVING A UTILITY'S APPLICATION FOR AN ECONOMIC
17 DEVELOPMENT RATE, FOR LOADS BETWEEN TWENTY-ONE AND FORTY
18 MEGAWATTS, THE COMMISSION MAY REQUIRE THE INVESTOR-OWNED
19 ELECTRIC UTILITY TO MAKE ADDITIONAL DEMONSTRATIONS, INCLUDING A
20 MARGINAL COST DETERMINATION, AN ADDITIONAL POWER FLOW ANALYSIS
21 TO DEMONSTRATE THAT THE ADDED LOAD WILL BE SUPPORTED BY
22 ADEQUATE TRANSMISSION CAPABILITIES AND WILL NOT NEGATIVELY
23 IMPACT RELIABILITY OR RESOURCE ADEQUACY, A DEMONSTRATION THAT
24 THE ADDITIONAL INFRASTRUCTURE COSTS WILL NOT BE BORNE BY OTHER
25 CUSTOMERS, AND A DEMONSTRATION THAT PROJECTS ABOVE TWENTY-ONE
26 MEGAWATTS WILL PROVIDE ADDITIONAL COMMUNITY BENEFITS. Any
27 addition or expansion of existing load at a single location that is greater

1 than ~~twenty~~ FORTY megawatts requires separate commission approval
2 based upon a finding that the addition or expansion is consistent with this
3 section AND IN THE PUBLIC INTEREST.

4 (III) (A) An investor-owned ELECTRIC utility may offer an
5 economic development rate to a qualifying commercial or industrial
6 customer for up to ten years.

7 (B) NOTWITHSTANDING SUBSECTION (6)(b)(III)(A) OF THIS
8 SECTION, THE INVESTOR-OWNED ELECTRIC UTILITY MAY PROPOSE, AND
9 THE COMMISSION MAY CONSIDER APPROVING, AN ECONOMIC
10 DEVELOPMENT RATE TO A QUALIFYING COMMERCIAL OR INDUSTRIAL
11 CUSTOMER FOR A PERIOD OF GREATER THAN TEN YEARS, BUT NO MORE
12 THAN TWENTY-FIVE YEARS.

13 (C) IN EVALUATING WHETHER IT IS IN THE PUBLIC INTEREST FOR AN
14 INVESTOR-OWNED ELECTRIC UTILITY'S PROPOSAL TO ALLOW A QUALIFYING
15 COMMERCIAL OR INDUSTRIAL CUSTOMER TO REMAIN ON AN ECONOMIC
16 DEVELOPMENT RATE FOR LONGER THAN TEN YEARS, THE COMMISSION
17 SHALL EVALUATE THE PROPOSED DURATION OF THE QUALIFYING
18 COMMERCIAL OR INDUSTRIAL CUSTOMER'S PROPOSED PROJECT,
19 COMMUNITY IMPACTS, AND IMPACTS TO RATES OF OTHER CUSTOMERS OF
20 THE UTILITY.

21 (c) (I) An ~~authorization~~ APPROVAL granted by the commission
22 pursuant to this section must include such terms and conditions as the
23 commission determines are necessary to ensure that the economic
24 development rates or charges assessed to other customers do not subsidize
25 the cost of providing service to qualifying commercial and industrial
26 customers consistent with subsection (6)(b)(I) of this section and that
27 there is no other subsidization of such service. In ~~developing~~ APPROVING

1 the terms and conditions OF AN ECONOMIC DEVELOPMENT RATE, the
2 commission shall consider, among other things:

3 (A) The rates and charges assessed to the INVESTOR-OWNED
4 ELECTRIC utility's wholesale customers; and

5 (B) The effects on other transmission system owners and users
6 resulting from new transmission facilities constructed in connection with
7 the utility's expansion of an existing voluntary ~~renewable~~ CLEAN energy
8 program or service offering; AND

9 (C) FOR ALL OF THE INVESTOR-OWNED ELECTRIC UTILITY'S
10 CUSTOMER CLASSES, THE BROADER ECONOMIC DEVELOPMENT BENEFITS
11 ASSOCIATED WITH THE QUALIFYING COMMERCIAL OR INDUSTRIAL
12 CUSTOMER BASED ON A DETERMINATION OF THE MARGINAL COST AND ON
13 A SOCIETAL ECONOMIC BENEFIT TEST DEVELOPED BY THE
14 INVESTOR-OWNED ELECTRIC UTILITY.

15 (IV) FOLLOWING A NOTICE PERIOD OF FOURTEEN BUSINESS DAYS
16 AFTER AN INVESTOR-OWNED ELECTRIC UTILITY FILES AN APPLICATION FOR
17 APPROVAL OF ECONOMIC DEVELOPMENT RATES, AND THE ADDITION OR
18 EXPANSION OF EXISTING LOAD AT A SINGLE LOCATION THAT IS FORTY-ONE
19 OR MORE MEGAWATTS, THE COMMISSION SHALL APPROVE OR DENY THE
20 APPLICATION WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EXPIRATION
21 OF THE NOTICE PERIOD.

22 (V) FOLLOWING A NOTICE PERIOD OF FOURTEEN BUSINESS DAYS
23 AFTER AN INVESTOR-OWNED ELECTRIC UTILITY FILES AN APPLICATION FOR
24 APPROVAL OF ECONOMIC DEVELOPMENT RATES, AND THE ADDITION OR
25 EXPANSION OF EXISTING LOAD AT A SINGLE LOCATION THAT IS MORE THAN
26 ONE HUNDRED FIFTY MEGAWATTS, THE COMMISSION SHALL APPROVE OR
27 DENY THE APPLICATION WITHIN TWO HUNDRED TEN DAYS AFTER THE

1 EXPIRATION OF THE NOTICE PERIOD.

2 (VI) (A) IF AN INVESTOR-OWNED ELECTRIC UTILITY DOES NOT
3 HAVE A COMMISSION-APPROVED TARIFF PURSUANT TO SUBSECTION
4 (6)(b)(II)(A) OF THIS SECTION, THE COMMISSION, FOLLOWING A NOTICE
5 PERIOD OF FOURTEEN BUSINESS DAYS AFTER THE INVESTOR-OWNED
6 ELECTRIC UTILITY FILES AN APPLICATION FOR APPROVAL OF ECONOMIC
7 DEVELOPMENT RATES, SHALL APPROVE OR DENY THE APPLICATION WITHIN
8 ONE HUNDRED TWENTY DAYS AFTER THE EXPIRATION OF THE NOTICE
9 PERIOD.

10 (B) THIS SUBSECTION (6)(c)(VI) IS REPEALED, EFFECTIVE JUNE 1,
11 2026.

12 (d) (I) An investor-owned ELECTRIC utility may seek commission
13 approval to expand any voluntary ~~renewable~~ CLEAN energy program or
14 service offering, except those covered by valid agreements to the contrary
15 executed and approved by the commission as of January 1, 2019, through
16 the acquisition of additional ~~renewable~~ CLEAN ENERGY generation
17 capacity and energy to meet the current and projected demand of:

18 (II) The commission may approve, within one hundred twenty
19 days, an expansion of an existing voluntary ~~renewable~~ CLEAN energy
20 program or service offering upon a showing by the utility that:

21 (A) There is not sufficient capacity and energy in the existing
22 voluntary ~~renewable~~ CLEAN energy program or service offering to satisfy
23 the needs of the customer and the customer meets the requirements of
24 subsection (6)(d)(I) of this section; and

25 (7) As used in subsection (6) of this section and this subsection
26 (7), UNLESS THE CONTEXT OTHERWISE REQUIRES:

27 (a) "MARGINAL COST" MEANS THE INCREMENTAL ADDITIONAL

1 COST THAT AN INVESTOR-OWNED ELECTRIC UTILITY INCURS AND CHARGES
2 TO SERVE AN ELECTRIC CUSTOMER OVER THE CONTRACT PERIOD, WHICH
3 ADDITIONAL COSTS WOULD NOT HAVE BEEN INCURRED IF THE CUSTOMER
4 DID NOT TAKE SERVICE ON THE UTILITY'S SYSTEM, INCLUDING, BUT NOT
5 LIMITED TO:

- 6 (I) FUEL;
- 7 (II) PURCHASED POWER;
- 8 (III) OPERATING AND MAINTENANCE COSTS;
- 9 (IV) CAPITAL ADDITIONS;
- 10 (V) OVERHEAD;
- 11 (VI) TAXES; AND
- 12 (VII) FEES.

13 ~~(a)~~ (b) "Qualifying commercial or industrial customer":

14 (I) Means a utility customer that:

15 (A) Agrees to: Locate commercial or industrial operations in
16 Colorado and add at least three megawatts of new load at a single
17 location, or expand existing commercial or industrial operations in
18 Colorado and add at least three megawatts of new load at a single
19 location; and

20 (B) Demonstrates, to the satisfaction of the investor-owned
21 ELECTRIC utility, subject to review by the commission, that: The cost of
22 electricity is a critical consideration in deciding where to locate new or
23 expand existing operations, and the availability of economic development
24 rates, either on their own or in combination with other economic
25 development incentives, is a substantial factor in the customer's decision
26 to locate new or expand existing business operations in Colorado; AND

27 (II) Does not include a customer that agrees to relocate or

1 otherwise transfer its existing load of at least three megawatts from the
2 service territory of another public utility, as defined in section 40-1-103,
3 into the service territory of the utility offering economic development
4 rates.

5 (c) "SOCIETAL ECONOMIC BENEFIT TEST" MEANS A TEST THAT
6 TAKES INTO ACCOUNT:

7 (I) THE ECONOMIC BENEFITS RECEIVED BY ALL CUSTOMER CLASSES
8 SERVED BY THE UTILITY; AND

9 (II) THE ECONOMIC DEVELOPMENT BENEFITS, INCLUDING:

10 (A) THE TOTAL NET LOCAL AND STATE TAXES TO BE PAID BY THE
11 QUALIFYING COMMERCIAL OR INDUSTRIAL CUSTOMER;

12 (B) THE AMOUNT OF FULL-TIME JOBS CREATED; AND

13 (C) OTHER ECONOMIC GROWTH, BENEFITS, OR BOTH BROUGHT TO
14 THE SURROUNDING COMMUNITY THAT RESULT FROM SERVING A
15 QUALIFYING COMMERCIAL OR INDUSTRIAL CUSTOMER WITH AN ECONOMIC
16 DEVELOPMENT RATE.

17 (b) (d) "Voluntary ~~renewable~~ CLEAN energy program or service
18 offering" means a program or other service offering approved by the
19 commission that allows a QUALIFYING commercial or industrial customer
20 access to eligible energy resources, as that term is defined in section
21 40-2-124 (1)(a), on a voluntary basis, on terms and conditions deemed
22 necessary by the commission. For a voluntary ~~renewable~~ CLEAN energy
23 program or service offering to be expanded, it must have been approved
24 by the commission prior to the expansion request of a QUALIFYING
25 commercial or industrial customer pursuant to subsection (6)(d)(I) of this
26 section.

27 (8) ~~This subsection (8)~~ and Subsections (6) and (7) of this section

1 AND THIS SUBSECTION (8) are repealed, effective January 1, ~~2028~~ 2035.

2 **SECTION 2. Applicability.** This act applies to applications filed
3 on or after the effective date of this act.

4 **SECTION 3. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions.