

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 21-1238

BY REPRESENTATIVE(S) Bennett, Kennedy, Amabile, Boesenecker, Cutter, Duran, Froelich, Hooton, Jackson, Jodeh, Kipp, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Tipper, Titone, Valdez A., Weissman, Woodrow;
also SENATOR(S) Hansen, Fenberg, Jaquez Lewis, Lee, Pettersen, Priola, Story.

CONCERNING THE MODERNIZATION OF GAS ENERGY EFFICIENCY PROGRAMS.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and determines that:

(a) Demand-side management (DSM) programs promote energy efficiency, saving utility ratepayers money and reducing energy consumption over a long period for a relatively small initial investment;

(b) Colorado law gives public utilities incentives to invest in DSM programs but conditions those incentives on a requirement that the DSM programs, taken as a whole, be cost-effective;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(c) Changes to the metrics used to determine the cost-effectiveness of DSM programs will more realistically account for their value, benefitting ratepayers economically while simultaneously reducing the greenhouse gas emissions of Colorado's gas utilities; and

(d) As a result of legislation passed in 2019, the Colorado air quality control commission is undertaking statewide assessments of greenhouse gas emissions, including emissions of not only carbon dioxide but also methane, which is often released in the process of natural gas production and distribution, and other greenhouse gases in the calculation of environmental costs. Leading climate scientists state that mitigation of short-lived pollutants such as methane can play a significant role in slowing the rate of climate change while producing many co-benefits for human health and food security.

(2) Therefore, the general assembly declares that it is in the public interest to:

(a) Update the methods used to determine the cost-effectiveness of gas DSM programs;

(b) Incorporate into the cost-effectiveness determinations the most recent and accurate assessments of the social costs of greenhouse gas emissions, including carbon dioxide and methane emissions, while recognizing that future assessments likely will provide still more favorable estimates of the long-term value of current investments in gas DSM programs;

(c) Ensure that a significant portion of gas DSM program expenditures be targeted to improve energy efficiency in income-qualified households;

(d) Direct the public utilities commission to incorporate into its evaluations of DSM program the costs of greenhouse gas emissions, including the social cost of carbon dioxide and methane leaked or emitted into the atmosphere; and

(e) Direct the public utilities commission to set savings targets for gas utility DSM plans based upon the maximum cost-effective and achievable level of savings.

SECTION 2. In Colorado Revised Statutes, 40-1-102, **amend** (5) and (6); and **add** (1.1) as follows:

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

(1.1) "BEHIND-THE-METER THERMAL RENEWABLE SOURCE" MEANS A TECHNOLOGY THROUGH WHICH A UTILITY CUSTOMER ACCESSES A RENEWABLE HEATING OR COOLING SOURCE TO SERVE THE CUSTOMER'S ELECTRIC OR HEATING NEEDS FOR ONE OR MORE END USES, INCLUDING WATER HEATING, SPACE HEATING OR COOLING, OR INDUSTRIAL PROCESSES.

(5) (a) "Cost-effective", with reference to a natural gas or electric demand-side management program or related measure, means having a benefit-cost ratio greater than one.

(b) In calculating the benefit-cost ratio, the benefits ~~shall~~ MUST include, ~~but are not limited to~~ IN A BASE CASE, the following, as applicable:

(I) The utility's avoided generation, transmission, distribution, capacity, and energy costs;

(II) The valuation of avoided GREENHOUSE GAS emissions, CALCULATED AS THE SOCIAL COST OF CARBON DIOXIDE IN ACCORDANCE WITH SECTIONS 40-3.2-106 AND 40-3.2-107 AND THE SOCIAL COST OF METHANE IN ACCORDANCE WITH SECTION 40-3.2-107, AS SEPARATE ITEMS IN THE COST-BENEFIT CALCULATION; and

(III) ~~Nonenergy~~ OTHER COSTS OR benefits as determined by the commission.

(c) In calculating the benefit-cost ratio, the costs ~~shall~~ MUST include ~~but are not limited to~~, utility and participant expenditures for the following, as applicable:

(I) Program design, administration, evaluation, advertising, and promotion;

(II) Customer education;

(III) Incentives and discounts;

(IV) Capital costs; and

(V) Operation and maintenance expenses.

(d) IN ADDITION TO THE BASE CASE ANALYSIS OF COST-EFFECTIVENESS DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION, A UTILITY MAY PROVIDE A CASE THAT DOES NOT INCLUDE THE SOCIAL COSTS OF METHANE AND CARBON DIOXIDE.

(6) "Demand-side management programs" or "DSM programs" means ANY OF THE FOLLOWING PROGRAMS OR COMBINATION OF PROGRAMS:

(a) Energy efficiency, INCLUDING WEATHERIZATION AND INSULATION;

(b) Conservation;

(c) Load management;

(d) BENEFICIAL ELECTRIFICATION, AS DEFINED IN SECTION 40-3.2-106 (6)(a); and

(e) Demand response programs. ~~or any combination of these programs.~~

SECTION 3. In Colorado Revised Statutes, 40-2-123, **amend** (1)(b) as follows:

40-2-123. New energy technologies - consideration by commission - incentives - definitions - legislative declaration. (1)(b)(I) The commission may give consideration to the likelihood of new environmental regulation and the risk of higher future costs associated with the emission of greenhouse gases such as carbon dioxide AND METHANE when it considers utility proposals to acquire resources ~~Where utilities eliminate or reduce carbon dioxide emissions through the use of capture and sequestration, the commission may consider the benefits of using carbon dioxide for enhanced oil recovery or other uses~~ OR TO IMPLEMENT DSM PROGRAMS. THE COMMISSION SHALL COLLABORATE WITH THE AIR QUALITY

CONTROL COMMISSION TO ENSURE THAT ANY EMISSIONS REDUCTIONS ACHIEVED THROUGH GAS DSM PROGRAMS ARE APPROPRIATELY ACCOUNTED FOR IN MEETING THE STATE'S GREENHOUSE GAS REDUCTION GOALS.

(II) FOR PURPOSES OF EVALUATING A GAS DSM PROGRAM OR MEASURE THAT INCORPORATES INNOVATIVE TECHNOLOGIES WITH THE POTENTIAL FOR SIGNIFICANT IMPACT, SUCH AS ENERGY-SAVING TECHNOLOGIES THAT GO BEYOND WHAT IS ACHIEVABLE USING ENERGY EFFICIENCY MEASURES ALONE, THE COMMISSION MAY FIND THE PROGRAM OR MEASURE COST-EFFECTIVE, NOTWITHSTANDING SECTION 40-1-102 (5)(a), EVEN IF ITS INITIAL BENEFIT-COST RATIO IS NOT GREATER THAN ONE WHEN CALCULATED USING CURRENTLY AVAILABLE DATA AND ASSUMPTIONS.

SECTION 4. In Colorado Revised Statutes, 40-3.2-103, **amend** (1), (2) introductory portion, (2)(a), (2)(b), (2)(c)(I), (3), and (5); and **add** (2.5) and (3.5) as follows:

40-3.2-103. Gas distribution utility demand-side management programs - recovery of costs. (1) ~~On or before September 30, 2007, the commission shall commence a rule-making proceeding, as described in subsection (2) of this section~~ COMMENCING IN 2022 AND NO LESS FREQUENTLY THAN EVERY FOUR YEARS THEREAFTER, EACH INVESTOR-OWNED GAS DISTRIBUTION UTILITY, ALSO REFERRED TO IN THIS SECTION AS A "GAS UTILITY", SHALL FILE AN APPLICATION TO OPEN A DSM STRATEGIC ISSUES PROCEEDING to develop ~~expenditure and~~ ENERGY SAVINGS TARGETS TO BE ACHIEVED BY THE GAS UTILITY, TAKING INTO ACCOUNT ITS POTENTIAL FOR COST-EFFECTIVE DEMAND-SIDE MANAGEMENT AS WELL AS COLORADO'S GREENHOUSE GAS REDUCTION GOALS. THE COMMISSION SHALL, AS PART OF APPROVING A GAS UTILITY'S GAS DSM STRATEGIC ISSUES APPLICATION, ALSO DEVELOP AN ESTIMATED DSM BUDGET COMMENSURATE WITH natural gas savings targets, funding and cost-recovery mechanisms, and a financial bonus structure for ~~demand-side management DSM programs implemented by an investor-owned gas distribution utility, also referred to in this section as a "gas utility"~~ A GAS UTILITY.

(2) As part of the ~~rule-making proceeding~~ DEVELOPMENT OF TARGETS, MECHANISMS, AND A BONUS STRUCTURE required by subsection (1) of this section, the commission shall:

(a) ~~Adopt AN ESTIMATED BUDGET FOR DSM program expenditure targets equal to at least one-half of one percent of a natural gas utility's revenues from its full service customers in the year prior to setting such targets~~ EXPENDITURES COMMENSURATE WITH THE ENERGY SAVINGS TARGETS ESTABLISHED BY THE COMMISSION;

(b) Establish DSM program ENERGY savings targets that are ~~commensurate with program expenditures and expressed in terms of an amount of gas saved per unit of program expenditures~~ CONSISTENT WITH ACHIEVING THE GREENHOUSE GAS REDUCTION TARGETS IN SECTION 25-7-102 (2)(g), TAKE INTO CONSIDERATION NEW CLEAN ENERGY TECHNOLOGIES AS CONTEMPLATED BY SECTION 40-2-123, AND REFLECT THE MAXIMUM COST-EFFECTIVE AND ACHIEVABLE NATURAL GAS SAVINGS POTENTIAL FOR THE GAS UTILITY CONSISTENT WITH THE NEEDS OF ITS FULL-SERVICE CUSTOMERS;

(c) (I) (A) Adopt procedures for allowing gas utilities to recover their prudently incurred costs of DSM programs without having to file a rate case. Such costs shall include, but are not limited to, facility investments; rebates; interest rate buy-downs; incremental labor costs, employee benefits, carrying costs, and employee-related administrative costs; and other administrative costs. All such costs shall be recovered through a cost adjustment mechanism that is set on an annual basis, or more frequently if deemed appropriate.

(B) LABOR COSTS SHALL REFLECT, AND THE COMMISSION SHALL REQUIRE, COMPLIANCE WITH ALL APPLICABLE LABOR STANDARDS SET FORTH IN SECTION 40-3.2-105.5.

(2.5) FOR GAS UTILITIES WITH FEWER THAN TWO HUNDRED FIFTY THOUSAND FULL-SERVICE CUSTOMERS, THE COMMISSION MAY ESTABLISH ENERGY SAVINGS TARGETS, A BUDGET FOR GAS DSM PROGRAM EXPENDITURES, FUNDING AND COST-RECOVERY MECHANISMS, AND A FINANCIAL BONUS STRUCTURE IN THE SAME PROCEEDING IN WHICH THE UTILITY'S GAS DSM PROGRAM PLAN IS SUBMITTED FOR APPROVAL.

(3) ~~Within twelve months~~ After the ~~completion of the rule-making required by~~ DEVELOPMENT OF THE TARGETS, MECHANISMS, AND BONUS STRUCTURE AS DESCRIBED IN subsection (1) of this section, each gas utility shall:

~~(a) (I) Develop and begin implementing a set of cost-effective GAS DSM programs for its full service customers. Such programs shall be of the gas utility's choosing, taking into account the characteristics of the gas utility and its customers. One or more programs may~~ PROGRAM PLANS DESIGNED TO MEET OR EXCEED THE ENERGY SAVINGS TARGETS ESTABLISHED BY THE COMMISSION.

(II) GAS DSM PROGRAM PLANS MAY BE COMBINED WITH ELECTRIC DSM PROGRAM PLANS, BENEFICIAL ELECTRIFICATION PLANS, OR OTHER PLANS THAT REDUCE ENERGY CONSUMPTION OR GREENHOUSE GAS EMISSIONS. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3)(a)(III) AND (3)(a)(IV) OF THIS SECTION, ONE OR MORE OF THE GAS DSM PROGRAMS OR MEASURES, REPRESENTING AN AGGREGATE TOTAL OF AT LEAST TWENTY-FIVE PERCENT OF OVERALL RESIDENTIAL GAS DSM PROGRAM EXPENDITURES, INCLUDING EXPENDITURES SERVING INCOME-QUALIFIED HOUSEHOLDS, MUST BE TARGETED TO ~~low-income~~ RESIDENTIAL customers ~~and, if so, may be provided directly by the gas utility or indirectly through financial support of conservation programs for low-income households administered by the state~~ IN INCOME-QUALIFIED HOUSEHOLDS.

(III) IN THE CASE OF A GAS UTILITY WITH FEWER THAN FIFTY THOUSAND FULL-SERVICE CUSTOMERS, AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(a)(IV) OF THIS SECTION, ONE OR MORE OF THE GAS DSM PROGRAMS OR MEASURES, REPRESENTING AN AGGREGATE TOTAL OF AT LEAST FIFTEEN PERCENT OF OVERALL RESIDENTIAL GAS DSM PROGRAM EXPENDITURES, INCLUDING EXPENDITURES SERVING INCOME-QUALIFIED HOUSEHOLDS, MUST BE TARGETED TO RESIDENTIAL CUSTOMERS IN INCOME-QUALIFIED HOUSEHOLDS.

(IV) ON OR AFTER JANUARY 1, 2026, THE COMMISSION MAY COMMENCE PROCEEDINGS TO ADJUST THE PERCENTAGE SPECIFIED IN SUBSECTION (3)(a)(II) OR (3)(a)(III) OF THIS SECTION IN LIGHT OF CHANGED CIRCUMSTANCES, SO LONG AS THE RESULTING PERCENTAGES REPRESENT A SIGNIFICANT PORTION OF GAS DSM PROGRAM EXPENDITURES AND CONTINUE TO MAKE PROGRESS TOWARD ACHIEVEMENT OF COLORADO'S ENERGY EFFICIENCY AND GREENHOUSE GAS EMISSION REDUCTION GOALS.

(b) In implementing APPROVED DSM programs, use reasonable efforts to maximize energy savings consistent with the annual energy efficiency budget.

(3.5) (a) TO MEET THE ENERGY SAVINGS TARGETS ESTABLISHED BY THE COMMISSION IN ACCORDANCE WITH THIS SECTION, GAS UTILITIES SHALL CONSIDER INCLUDING INCENTIVES FOR CUSTOMERS TO UTILIZE BEHIND-THE-METER THERMAL RENEWABLE SOURCES. THE COMMISSION SHALL NOT PROHIBIT GAS UTILITIES FROM OFFERING PROGRAMS OR INCENTIVES THAT ENCOURAGE CUSTOMERS TO REPLACE GAS-FUELED APPLIANCES WITH EFFICIENT ELECTRIC APPLIANCES.

(b) THE COMMISSION SHALL NOT REQUIRE THE REMOVAL OF GAS-FUELED APPLIANCES OR EQUIPMENT FROM AN EXISTING STRUCTURE NOR BAN THE INSTALLATION OF GAS SERVICE LINES TO ANY NEW STRUCTURE.

(5) (a) The commission shall authorize each gas utility to recover ~~moneys~~ MONEY spent for education programs, impact and process evaluations, and program planning related to natural gas DSM programs offered by the gas utility without having to show that such expenditures, on an independent basis, are cost-effective. The commission may limit the amount spent for these activities.

(b) (I) UPON PETITION BY A REGULATED GAS UTILITY, THE COMMISSION SHALL REMOVE DISINCENTIVES TO THE IMPLEMENTATION OF EFFECTIVE GAS DSM PROGRAMS THROUGH THE ADOPTION OF A RATE ADJUSTMENT MECHANISM THAT ENSURES THAT THE REVENUE PER CUSTOMER APPROVED BY THE COMMISSION IN A GENERAL RATE CASE PROCEEDING IS RECOVERED BY THE GAS UTILITY WITHOUT REGARD TO THE QUANTITY OF NATURAL GAS ACTUALLY SOLD BY THE GAS UTILITY AFTER THE DATE THE RATE TOOK EFFECT. THE COMMISSION SHALL SEPARATELY CALCULATE, FOR THE RATE CLASS OR CLASSES TO WHICH A RATE ADJUSTMENT MECHANISM APPLIES, THE REGULATORY DISINCENTIVES REMOVED THROUGH THAT MECHANISM AND COLLECTED OR REFUNDED BY THE GAS UTILITY THROUGH A TARIFF RIDER.

(II) REMOVING DISINCENTIVES THROUGH A RATE ADJUSTMENT MECHANISM ADOPTED PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION DOES NOT PRECLUDE A GAS UTILITY FROM RECEIVING A BONUS PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION.

(III) THE COMMISSION SHALL NOT REDUCE A GAS UTILITY'S RETURN ON EQUITY BASED SOLELY ON APPROVAL OF A RATE ADJUSTMENT MECHANISM ADOPTED PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION.

SECTION 5. In Colorado Revised Statutes, add 40-3.2-105.5 as follows:

40-3.2-105.5. Labor standards for gas DSM projects. (1) THIS SECTION APPLIES TO ALL NECESSARY PLUMBING, MECHANICAL, AND ELECTRICAL WORK PERFORMED IN CONNECTION WITH A PROJECT UNDERTAKEN PURSUANT TO A GAS DSM PROGRAM UNDER THIS ARTICLE 3.2 AND FOR WHICH A CUSTOMER OF AN INVESTOR-OWNED UTILITY APPLIES FOR A REBATE DIRECTLY FROM THE UTILITY.

(2) WHEN PRACTICABLE, THE UTILITY MAY ASSIGN ITS OWN EMPLOYEES TO PERFORM THE WORK, SUBJECT TO STATE LICENSING REQUIREMENTS AND ALL APPLICABLE STATE AND LOCAL RULES, CODES, AND STANDARDS.

(3) (a) THE UTILITY SHALL MAKE USE OF A LIST, REFERRED TO IN THIS SECTION AS THE "CERTIFIED CONTRACTOR LIST", CONTAINING THE NAMES AND CONTACT INFORMATION OF:

(I) QUALIFIED CONTRACTORS THAT PARTICIPATE IN APPRENTICESHIP PROGRAMS THAT:

(A) ARE REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR WITH A STATE APPRENTICESHIP COUNCIL RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR; AND

(B) HAVE BEEN PROVIDING TRAINING FOR AT LEAST SIX MONTHS; AND

(II) QUALIFIED MECHANICAL, ELECTRICAL, AND PLUMBING CONTRACTORS THAT PARTICIPATE IN APPRENTICESHIP PROGRAMS MEETING THE STANDARDS SPECIFIED IN SECTION 24-92-115 (1)(a)(II).

(b) THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT SHALL OVERSEE THE COMPILATION OF THE CERTIFIED CONTRACTOR LIST THROUGH ONE OF THE FOLLOWING METHODS:

(I) DIRECTING THE STATE APPRENTICESHIP COUNCIL, IF AVAILABLE, TO ASSEMBLE THE INFORMATION; OR

(II) ESTABLISH AN APPLICATION PROCESS WHEREBY CONTRACTORS WOULD APPLY FOR INCLUSION IN THE LIST AND PROVIDE EVIDENCE, IN A FORM SATISFACTORY TO THE DEPARTMENT, THAT EACH APPLICANT MEETS THE CRITERIA SET FORTH IN SUBSECTION (3)(a) OF THIS SECTION.

(c) THE UTILITY SHALL PUBLISH THE CERTIFIED CONTRACTOR LIST ON ITS WEBSITE AND INCLUDE OR REFERENCE THE LIST IN ALL OF THE UTILITY'S RELEVANT MARKETING MATERIAL FOR GAS DSM PROGRAMS.

(d) IN ADDITION TO THE CERTIFIED CONTRACTOR LIST, EACH INVESTOR-OWNED GAS UTILITY SHALL REQUIRE ITS RESIDENTIAL CUSTOMERS TO USE LICENSED PLUMBING AND ELECTRICAL CONTRACTORS THAT PERFORM THE TYPE OF WORK APPROPRIATE TO RESIDENTIAL GAS DSM INSTALLATIONS FOR PARTICIPATION IN GAS DSM PROGRAMS WHERE A REBATE IS PAID DIRECTLY TO THE CUSTOMER AFTER THE INSTALLATION IS COMPLETE AND THE CUSTOMER USES A CONTRACTOR.

(4) THE FOLLOWING REQUIREMENTS APPLY TO GAS DSM PROJECTS IN NEW OR EXISTING BUILDINGS:

(a) FOR PLUMBING, MECHANICAL, OR ELECTRICAL PROJECTS UNDERTAKEN BY A COMMERCIAL OR INDUSTRIAL CUSTOMER IN A BUILDING THAT CONTAINS TWENTY THOUSAND SQUARE FEET OR MORE OF CONDITIONED FLOOR SPACE AND FOR WHICH A REBATE IS TO BE PROVIDED DIRECTLY TO THE CUSTOMER AS PART OF A GAS DSM PROGRAM, THE UTILITY SHALL CONDITION PAYMENT OF THE REBATE ON THE CUSTOMER'S EXCLUSIVE USE OF CONTRACTORS FROM THE CERTIFIED CONTRACTOR LIST UNLESS THE WORK IS DONE BY EMPLOYEES OF THE UTILITY.

(b)(I) FOR PLUMBING, MECHANICAL, OR ELECTRICAL PROJECTS THAT INVOLVE ENERGY EFFICIENCY IMPROVEMENTS TO CENTRAL BUILDING SYSTEMS IN A MULTIFAMILY BUILDING THAT CONTAINS TWENTY THOUSAND SQUARE FEET OR MORE OF CONDITIONED FLOOR SPACE AND FOR WHICH A REBATE IS TO BE PROVIDED DIRECTLY TO THE BUILDING OWNER AS PART OF A GAS DSM PROGRAM, THE UTILITY SHALL CONDITION PAYMENT OF THE REBATE ON THE BUILDING OWNER'S EXCLUSIVE USE OF CONTRACTORS THAT PARTICIPATE IN APPRENTICESHIP PROGRAMS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR WITH A STATE APPRENTICESHIP COUNCIL RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR FOR ANY NECESSARY

PLUMBING OR ELECTRICAL WORK. IF THE CONTRACTOR CHOSEN BY THE CUSTOMER IS NOT ON THE CERTIFIED CONTRACTOR LIST, THE UTILITY SHALL REQUIRE ANOTHER METHOD OF VERIFYING COMPLIANCE WITH THIS SUBSECTION (4)(b).

(II) THIS SUBSECTION (4)(b) DOES NOT APPLY TO A GAS DSM PROJECT THAT IS LIMITED TO IN-UNIT WORK IN A MULTIFAMILY BUILDING, AS UNDERTAKEN BY THE OWNER OR TENANT OF THE MULTIFAMILY BUILDING OR UNIT.

SECTION 6. In Colorado Revised Statutes, 40-3.2-106, **amend** (1) introductory portion, (1)(c), (4), and (5); and **add** (1)(c.5) as follows:

40-3.2-106. Costs of pollution in utility planning - definitions - rules. (1) The commission shall require an electric OR GAS public utility subject to commission jurisdiction to consider the cost of carbon dioxide emissions, as set forth pursuant to IN subsection (4) of this section, when determining the cost, benefit, or net present value of any plan or proposal submitted in one of the following proceedings:

(c) Applications related to, ~~section 40-3.2-104;~~ or THE COMMISSION'S EVALUATION OF, PROGRAMS ADOPTED UNDER SECTION 40-3.2-103;

(c.5) APPLICATIONS RELATED TO, OR THE COMMISSION'S EVALUATION OF, PROGRAMS ADOPTED UNDER SECTION 40-3.2-104; OR

(4) The commission shall base the cost of carbon dioxide emissions on the most recent assessment of the social cost of carbon dioxide developed by the federal government USING A DISCOUNT RATE OF TWO AND ONE-HALF PERCENT OR LESS. Starting in 2020, the commission shall use a social cost of carbon dioxide of not less than ~~forty-six~~ SIXTY-EIGHT dollars per short ton. The commission shall modify the cost of carbon dioxide emissions based on escalation rates of the 2020 base cost by an amount that is equal to or greater than the ~~central value~~ escalation rates established in the technical support document. When calculating the cost of carbon dioxide emissions for any proceeding listed in subsection (1) of this section, the commission shall use ~~the same~~ A discount rate as that used to develop ~~the federal~~ FOR THE social cost of carbon dioxide as set forth in THAT DOES NOT EXCEED THE LESSER OF TWO AND ONE-HALF PERCENT OR ANY LOWER VALUE ESTABLISHED BY THE MOST RECENT AVAILABLE SUCCESSOR TO THE

technical support document. Notwithstanding the discount rate used to develop the social cost of carbon dioxide value over the planning period, the commission shall continue to discount any net present value analysis of any optimized resource portfolio in the electric resource planning process using discount rates that the commission deems appropriate.

(5) IN THE BASE CASE ANALYSIS OF COST EFFECTIVENESS AS DESCRIBED IN SECTION 40-1-102 (5)(b), the commission shall apply a THE SOCIAL cost of carbon dioxide AND THE SOCIAL COST OF METHANE emissions to the ~~nonenergy benefits~~ BENEFIT-COST CALCULATION for programs that are defined to be ENERGY EFFICIENCY OR beneficial electrification PROGRAMS OR THAT INCORPORATE BEHIND-THE-METER THERMAL RENEWABLE SOURCES.

SECTION 7. In Colorado Revised Statutes, **add** 40-3.2-107 as follows:

40-3.2-107. Costs of methane pollution in gas DSM program planning - rules - definitions. (1) THE COMMISSION SHALL REQUIRE A GAS PUBLIC UTILITY SUBJECT TO COMMISSION JURISDICTION TO CONSIDER THE SOCIAL COST OF METHANE EMISSIONS, AS SET FORTH IN SUBSECTION (2) OF THIS SECTION, WHEN DETERMINING THE COST, BENEFIT, OR NET PRESENT VALUE OF REVENUE REQUIREMENTS OF ANY PLAN OR PROPOSAL SUBMITTED IN AN APPLICATION RELATED TO, OR THE COMMISSION'S EVALUATION OF, PROGRAMS ADOPTED UNDER SECTION 40-3.2-103.

(2) (a) THE COMMISSION SHALL BASE THE SOCIAL COST OF METHANE EMISSIONS ON THE MOST RECENT ASSESSMENT OF THE GLOBAL SOCIAL COST OF METHANE DEVELOPED BY THE FEDERAL GOVERNMENT, USING A DISCOUNT RATE OF TWO AND ONE-HALF PERCENT OR LESS AS UPDATED TO REFLECT THE LATEST AVAILABLE FIGURES DERIVED FROM PEER-REVIEWED, PUBLISHED STUDIES; EXCEPT THAT, BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL USE A SOCIAL COST OF METHANE OF NOT LESS THAN ONE THOUSAND SEVEN HUNDRED FIFTY-SIX DOLLARS PER SHORT TON. THE COMMISSION SHALL MODIFY THE SOCIAL COST OF METHANE EMISSIONS BASED ON ESCALATION RATES OF THE 2020 BASE COST BY AN AMOUNT THAT IS EQUAL TO OR GREATER THAN THE ESCALATION RATES ESTABLISHED IN THE ADDENDUM TO THE TECHNICAL SUPPORT DOCUMENT AND SHALL USE A DISCOUNT RATE THAT DOES NOT EXCEED THE LESSER OF TWO AND ONE-HALF PERCENT OR ANY LOWER VALUE ESTABLISHED BY THE MOST RECENT AVAILABLE SUCCESSOR TO THE TECHNICAL SUPPORT

DOCUMENT.

(b) WHEN CALCULATING THE COST OF METHANE EMISSIONS FOR ANY PURPOSE LISTED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSION SHALL OBTAIN AND APPLY THE BEST AVAILABLE VALUES FOR NATURAL GAS LEAKAGE DURING THE EXTRACTION, PROCESSING, TRANSPORTATION, AND DELIVERY OF NATURAL GAS BY THE GAS PUBLIC UTILITY AS WELL AS LEAKAGE FROM PIPING OR OTHER EQUIPMENT ON CUSTOMER PREMISES. THE COMMISSION SHALL TAKE INTO ACCOUNT ANY RELEVANT DATA AND EMISSIONS ACCOUNTING METHODOLOGIES DEVELOPED BY THE AIR QUALITY CONTROL COMMISSION PURSUANT TO SECTION 25-7-140 REGARDING METHANE LEAKAGE RATES AND THE APPROPRIATE GLOBAL WARMING POTENTIAL OF METHANE. THE COMMISSION SHALL USE THE SAME DISCOUNT RATE AS THAT USED TO DEVELOP THE FEDERAL SOCIAL COST OF METHANE, AS SET FORTH IN THE ADDENDUM TO THE TECHNICAL SUPPORT DOCUMENT.

(c) NOTWITHSTANDING THE DISCOUNT RATE USED FOR THE COST OF METHANE EMISSIONS, THE COMMISSION SHALL DISCOUNT OTHER FUTURE COST STREAMS INTO THE NET PRESENT VALUE ANALYSIS OF ANY RESOURCE PORTFOLIO IN THE GAS DSM PROGRAM PLANNING PROCESS USING A DISCOUNT RATE THAT THE COMMISSION DEEMS RELEVANT TO THE PARTIES RESPONSIBLE FOR FINANCING OR PAYING THESE FUTURE COSTS. WHEN RATEPAYERS ARE COVERING COSTS WITHOUT INVESTMENT FROM GAS PUBLIC UTILITIES, SUCH AS ENVIRONMENTAL COSTS OR PASS-THROUGH FUEL COSTS, THE COMMISSION SHALL GIVE CONSIDERATION TO DISCOUNTING THOSE COSTS WITH A STABLE LONG-TERM INFLATION RATE THAT, IN THE COMMISSION'S JUDGMENT, ACCURATELY REPRESENTS THE NET PRESENT VALUE OF FUTURE CASH FLOWS EXPERIENCED BY RATEPAYERS.

(3) AS USED IN THIS SECTION:

(a) "ADDENDUM TO THE TECHNICAL SUPPORT DOCUMENT" MEANS THE 2016 ADDENDUM OF THE FEDERAL INTERAGENCY WORKING GROUP ON SOCIAL COST OF GREENHOUSE GASES, ENTITLED "ADDENDUM TO TECHNICAL SUPPORT DOCUMENT ON SOCIAL COST OF CARBON FOR REGULATORY IMPACT ANALYSIS UNDER EXECUTIVE ORDER 12866: APPLICATION OF THE METHODOLOGY TO ESTIMATE THE SOCIAL COST OF METHANE AND THE SOCIAL COST OF NITROUS OXIDE".

(b) "TECHNICAL SUPPORT DOCUMENT" MEANS THE 2016 TECHNICAL

SUPPORT DOCUMENT OF THE FEDERAL INTERAGENCY WORKING GROUP ON SOCIAL COST OF GREENHOUSE GASES, ENTITLED "TECHNICAL UPDATE OF THE SOCIAL COST OF CARBON FOR REGULATORY IMPACT ANALYSIS UNDER EXECUTIVE ORDER 12866".

SECTION 8. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to plans, applications, or other documents reviewed by the public utilities commission on or after the applicable effective date of this act.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO