

SB23-016

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Hansen

1 Amend printed bill, page 13, after line 23 insert:

2 "SECTION 9. In Colorado Revised Statutes, 40-1-102, **amend**
3 (1.3); and **add** (1.4), (8.2), and (8.3) as follows:

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

6 (1.3) ~~"Charge" includes any consideration, however denominated,~~
7 ~~paid or provided by a retail cooperative electric association to a wholesale~~
8 ~~electric cooperative in connection with an agreement by which the retail~~
9 ~~cooperative electric association terminates a wholesale electric service~~
10 ~~contract with the wholesale electric cooperative~~ "CERTIFICATE OF
11 COMPLETION" MEANS AN ATTESTATION THAT AN INTERCONNECTION
12 CUSTOMER SUBMITS TO A PUBLIC UTILITY TO CONFIRM THAT A RETAIL
13 DISTRIBUTED GENERATION RESOURCE HAS BEEN PROPERLY INSPECTED OR
14 OTHERWISE CERTIFIED TO MEET THE SAFE OPERATION REQUIREMENTS OF
15 A LOCAL GOVERNMENT'S BUILDING CODE ENFORCEMENT AUTHORITY.

16 (1.4) "CHARGE" INCLUDES ANY CONSIDERATION, HOWEVER
17 DENOMINATED, PAID OR PROVIDED BY A RETAIL COOPERATIVE ELECTRIC
18 ASSOCIATION TO A WHOLESALE ELECTRIC COOPERATIVE IN CONNECTION
19 WITH AN AGREEMENT BY WHICH THE RETAIL COOPERATIVE ELECTRIC
20 ASSOCIATION TERMINATES A WHOLESALE ELECTRIC SERVICE CONTRACT
21 WITH THE WHOLESALE ELECTRIC COOPERATIVE.

22 (8.2) "INTERCONNECTION AGREEMENT" MEANS AN AGREEMENT
23 BETWEEN A PUBLIC UTILITY AND AN INTERCONNECTION CUSTOMER TO
24 INTERCONNECT A RETAIL DISTRIBUTED GENERATION RESOURCE TO THE
25 UTILITY SYSTEM.

26 (8.3) (a) "INTERCONNECTION CUSTOMER" MEANS AN ENTITY THAT
27 PROPOSES TO INTERCONNECT A RETAIL DISTRIBUTED GENERATION
28 RESOURCE ON THE DISTRIBUTION SYSTEM OF A PUBLIC UTILITY.

29 (b) "INTERCONNECTION CUSTOMER" INCLUDES AN AFFILIATE OR A
30 SUBSIDIARY OF A PUBLIC UTILITY THAT PROPOSES TO INTERCONNECT A
31 RETAIL DISTRIBUTED GENERATION RESOURCE TO THE PUBLIC UTILITY'S
32 SYSTEM."

33 Renumber succeeding sections accordingly.

34 Page 16, after line 7 insert:

35 "SECTION 11. In Colorado Revised Statutes, **amend** 40-2-135
36 as follows:

1 **40-2-135. Retail distributed generation - customers' rights -**
2 **rules.** (1) A retail electric utility customer is entitled to generate,
3 consume, store, and export electricity produced from eligible energy
4 resources to the electric grid through the use of customer-sited retail
5 distributed generation, as defined in section 40-2-124 (1)(a)(VIII), subject
6 to reliability standards, interconnection rules, and procedures, as
7 determined by the commission.

8 (2) (a) A RETAIL ELECTRIC UTILITY VIOLATES THIS SECTION IF THE
9 UTILITY FAILS TO PROVIDE REASONABLE, GOOD FAITH, AND TIMELY
10 SERVICE TO AN INTERCONNECTION CUSTOMER AND SUCH VIOLATION MAY
11 RESULT IN COMMISSION ACTION, INCLUDING THE ASSESSMENT OF
12 MONETARY FINES AGAINST THE RETAIL ELECTRIC UTILITY. IF A RETAIL
13 ELECTRIC UTILITY FAILS TO PROVIDE TIMELY SERVICE AND ADHERE TO
14 TIMELINES THAT THE COMMISSION ESTABLISHES AS PART OF THE
15 COMMISSION'S INTERCONNECTION RULES, THE RETAIL ELECTRIC UTILITY
16 MAY BE SUBJECT TO PENALTIES OF UP TO TWO THOUSAND DOLLARS PER
17 DAY FOR EACH DAY THAT THE VIOLATION OCCURRED.

18 (b) THE COMMISSION SHALL ADOPT RULES TO ANNUALLY ADJUST
19 THE PENALTY AMOUNT SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION
20 BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES
21 DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE
22 INDEX FOR THE DENVER-AURORA-LAKEWOOD AREA FOR ALL ITEMS PAID
23 BY ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

24 (c) (I) FOR A RETAIL DISTRIBUTED GENERATION RESOURCE THAT
25 IS TWENTY-FIVE KILOWATTS OR LESS, A PUBLIC UTILITY SHALL PROVIDE AN
26 INTERCONNECTION CUSTOMER AN EXECUTED INTERCONNECTION
27 AGREEMENT NO MORE THAN THIRTY BUSINESS DAYS AFTER RECEIVING
28 PAYMENT OF AN INTERCONNECTION FEE FROM THE INTERCONNECTION
29 CUSTOMER.

30 (II) FOLLOWING THE CONSTRUCTION OF A RETAIL DISTRIBUTED
31 GENERATION RESOURCE, A PUBLIC UTILITY MUST PROVIDE
32 INTERCONNECTION OF THE CUSTOMER'S RETAIL DISTRIBUTED GENERATION
33 RESOURCE NO MORE THAN THIRTY BUSINESS DAYS AFTER THE
34 INTERCONNECTION CUSTOMER SUBMITS TO THE PUBLIC UTILITY A
35 CERTIFICATE OF COMPLETION.

36 (III) IF THE SUM OF A PUBLIC UTILITY'S COMPLIANCE WITH THESE
37 TIMES SET FORTH IN THIS SUBSECTION (2)(c) EXCEEDS SIXTY DAYS, THE
38 PUBLIC UTILITY MAY BE SUBJECT TO PENALTIES CONSISTENT WITH THIS
39 SUBSECTION (2).

40 (d) A PUBLIC UTILITY IS NOT SUBJECT TO PENALTIES UNDER THIS
41 SUBSECTION (2) IF THE PUBLIC UTILITY CAN DEMONSTRATE THAT:

42 (I) THE INTERCONNECTION CUSTOMER FAILED TO TIMELY REMEDY
43 ANY MATERIAL DEFECTS IN THE COMPLETION OF THE INTERCONNECTION

1 CUSTOMER'S APPLICATION FOR INTERCONNECTION AND THE PUBLIC
2 UTILITY IDENTIFIED THE DEFECTS DURING ITS REVIEW OF THE
3 APPLICATION;
4 (II) THE RETAIL DISTRIBUTED GENERATION RESOURCE CANNOT BE
5 SAFELY INTERCONNECTED TO THE PUBLIC UTILITY'S SYSTEM IN A MANNER
6 CONSISTENT WITH THE COMMISSION'S INTERCONNECTION RULES; OR
7 (III) OTHER EXTENUATING CIRCUMSTANCES CAUSED A DELAY IN
8 INTERCONNECTION.
9 (3) (a) AN INTERCONNECTION CUSTOMER MAY FILE A COMPLAINT
10 WITH THE COMMISSION IN ACCORDANCE WITH SECTION 40-6-108 ALLEGING
11 THAT A PUBLIC UTILITY HAS VIOLATED SUBSECTION (2) OF THIS SECTION.
12 (b) IN CONSIDERING A COMPLAINT FILED PURSUANT TO THIS
13 SUBSECTION (3), THE COMMISSION MAY ORDER THE PUBLIC UTILITY TO
14 REFUND INTERCONNECTION STUDY FEES CHARGED TO THE
15 INTERCONNECTION CUSTOMER. IF A PUBLIC UTILITY IS ORDERED TO
16 REFUND SUCH INTERCONNECTION STUDY FEES, SUCH REFUND IS NOT AN
17 EXPENSE THAT THE PUBLIC UTILITY MAY RECOVER FROM ITS RATEPAYERS.
18 (4) THE COMMISSION SHALL ONLY ASSESS THE PENALTIES SET
19 FORTH IN SUBSECTION (2)(a) OF THIS SECTION AGAINST A PUBLIC UTILITY
20 IF:
21 (a) AN INTERCONNECTION CUSTOMER OR COMMISSION STAFF HAS
22 FILED, AND THE COMMISSION HAS ADJUDICATED, A COMPLAINT PURSUANT
23 TO SECTION 40-6-108; AND
24 (b) THE PUBLIC UTILITY HAS A TARIFF ON FILE WITH THE
25 COMMISSION THAT PROVIDES INCENTIVES AND PENALTIES TO PROVIDE
26 INTERCONNECTION SERVICE AND THE PUBLIC UTILITY HAS EXCEEDED THE
27 TIMELINES ESTABLISHED IN THE TARIFF FILING.
28 (5) IN JURISDICTIONS THAT ALLOW INTERCONNECTION WITHOUT A
29 PUBLIC UTILITY PRESENT, AN INTERCONNECTION CUSTOMER MAY INSTALL
30 ALL NECESSARY METERING EQUIPMENT AND ENERGIZE THE SYSTEM
31 FOLLOWING INSTALLATION IF:
32 (a) THE INTERCONNECTION CUSTOMER HAS AN INTERCONNECTION
33 AGREEMENT WITH A PUBLIC UTILITY AND A CERTIFICATE OF COMPLETION
34 FROM A LOCAL GOVERNMENT'S BUILDING CODE ENFORCEMENT
35 AUTHORITY; AND
36 (b) THE INSTALLATION AND ENERGIZING WORK IS OVERSEEN BY A
37 LICENSED MASTER ELECTRICIAN.
38 (6) A PUBLIC UTILITY MAY RECOVER ITS PRUDENTLY INCURRED
39 COSTS TO FACILITATE A TIMELY INTERCONNECTION, WHICH COSTS MAY
40 INCLUDE THE COST OF EQUIPMENT THAT THE PUBLIC UTILITY PROCURES
41 FOR FUTURE UPGRADES NEEDED TO INTERCONNECT RETAIL DISTRIBUTED
42 GENERATION RESOURCES. A PUBLIC UTILITY MAY RECOVER THE COSTS OF
43 ANY SUCH EQUIPMENT INVENTORY AS CAPITAL WORK IN PROGRESS IF THE

1 INVENTORY IS PROJECTED TO BE USED WITHIN FIVE YEARS OF ITS
2 PROCUREMENT AND WITH A RETURN AT THE MOST RECENTLY AUTHORIZED
3 WEIGHTED AVERAGE COST OF CAPITAL.

4 **SECTION 12.** In Colorado Revised Statutes, 40-7-105, **amend**
5 (1); and **add** (1.5) and (4) as follows:

6 **40-7-105. Violations - penalty - separate offenses - rules.**

7 (1) Any public utility ~~which~~ THAT violates or fails to comply with any
8 provision of the state constitution or of articles 1 to 7 of this ~~title~~ TITLE 40
9 or ~~which~~ THAT fails, omits, or neglects to obey, observe, or comply with
10 any order, decision, decree, rule, direction, demand, or requirement of the
11 commission or any part or provision thereof, except an order for the
12 payment of money, in a case in which a penalty has not been provided for
13 ~~such~~ THE public utility, is subject to a penalty of not more than ~~two~~
14 TWENTY thousand dollars ~~for each~~ PER offense FOR EACH DAY THAT THE
15 OFFENSE CONTINUES.

16 (1.5) (a) ANY PROPOSED PENALTY IS SUBJECT TO A FINDING BY THE
17 COMMISSION OF CUSTOMER HARM THAT IS COMMENSURATE WITH THE
18 AMOUNT OF THE PENALTY LEVIED. IN DETERMINING THE AMOUNT OF A
19 PENALTY OR WHETHER ANY PENALTY IS LEVIED, THE COMMISSION SHALL
20 ALSO CONSIDER FACTORS INCLUDING:

- 21 (I) THE SIZE OF THE UTILITY;
22 (II) FACTORS INFLUENCING THE VIOLATION;
23 (III) THE UTILITY'S PREVIOUS HISTORY OF ANY SIMILAR
24 VIOLATIONS;
25 (IV) REMEDIAL MEASURES; AND
26 (V) ANY OTHER FACTORS THAT MAY MITIGATE ANY HARM TO
27 CUSTOMERS.

28 (b) THE COMMISSION SHALL ADOPT RULES TO ANNUALLY ADJUST
29 THE MAXIMUM PER-DAY PENALTY AMOUNT SET FORTH IN SUBSECTION (1)
30 OF THIS SECTION BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE
31 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
32 CONSUMER PRICE INDEX FOR THE DENVER-AURORA-LAKEWOOD AREA FOR
33 ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

34 (4) ANY PENALTY THAT THE COMMISSION ASSESSES AGAINST A
35 UTILITY UNDER THIS SECTION IS NOT RECOVERABLE AS AN EXPENSE
36 PAYABLE BY THE UTILITY'S RATEPAYERS."

37 Renumber succeeding sections accordingly.

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