

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0061.01 Christopher McMichael x4775

SENATE BILL 26-002

SENATE SPONSORSHIP

Kipp and Exum,

HOUSE SPONSORSHIP

Willford,

Senate Committees

Transportation & Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING ENERGY AFFORDABILITY, AND, IN CONNECTION**
102 **THEREWITH, ESTABLISHING A FIRST ALLOTMENT OF**
103 **RESIDENTIAL ELECTRICITY SERVICE PROGRAM THAT PROVIDES**
104 **INCOME-QUALIFIED UTILITY CUSTOMERS A MINIMUM LEVEL OF**
105 **ELECTRICITY SERVICE AT A MARGINAL COST RATE.**

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 requires an investor-owned electric utility (utility) to submit a proposal to the public utilities commission (PUC) that

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.

establishes a first allotment of residential electricity service (FARE service) program.

The FARE service program provides a minimum level of electricity at a marginal cost rate for income-qualified utility customers. A FARE service proposal that a utility submits to the PUC must include:

- The amount of electricity that qualifies as a minimum level of electricity for an average income-qualified utility customer based on monthly usage to support a customer's basic needs;
- A marginal cost rate on a per-kilowatt-hour basis for delivering electricity to a customer, which marginal cost rate must be lower than the residential customer rate that the income-qualified utility customer would normally be charged; and
- A description of the process by which an income-qualified utility customer may enroll in the FARE service program.

The PUC shall approve a utility's FARE service proposal if the PUC determines that the proposed FARE service would be in the public interest.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Public utilities have operated in Colorado to provide electricity
5 service for over 100 years;

6 (b) As public utilities, investor-owned electric utilities are granted
7 certain privileges for providing electricity service to the public, such as
8 operating as a monopoly within their service territories, the ability to
9 recover costs from ratepayers, and an almost guaranteed rate of return;

10 (c) Demands for and the use of electricity have changed
11 dramatically over the past 100 years, and now electricity service is not a
12 luxury but an integral and necessary part of daily life;

13 (d) However, expectations upon investor-owned electric utilities
14 have not changed to reflect the integral nature that electricity serves in

1 modern life so that everyone can afford and have access to reliable
2 electricity;

3 (e) Thus, it is necessary for the general assembly to regulate
4 public utilities so that all citizens of Colorado, regardless of income, can
5 afford electricity service; and

6 (f) It is in the public interest for investor-owned electric utilities
7 to provide the first allotment of residential electricity service to
8 income-qualified utility customers, which service represents a minimum
9 level of electricity at a marginal cost rate to customers.

10 **SECTION 2.** In Colorado Revised Statutes, **add 40-3-122** as
11 follows:

12 **40-3-122. First allotment of residential electricity (FARE)**
13 **service - marginal cost rate - income-qualified utility customers -**
14 **minimum level of electricity - commission approval - rules -**
15 **definitions.**

16 (1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
17 OTHERWISE REQUIRES:

18 (a) "FIRST ALLOTMENT OF RESIDENTIAL ELECTRICITY SERVICE" OR
19 "FARE SERVICE" MEANS A MINIMUM LEVEL OF ELECTRICITY PROVIDED AT
20 A MARGINAL COST RATE TO INCOME-QUALIFIED UTILITY CUSTOMERS.

21 (b) "INCOME-QUALIFIED UTILITY CUSTOMER" HAS THE MEANING
22 SET FORTH IN SECTION 40-3-106 (1)(d)(II).

23 (c) "INVESTOR-OWNED ELECTRIC UTILITY" MEANS A RETAIL
24 ELECTRIC UTILITY IN THE STATE THAT IS REGULATED BY THE COMMISSION
25 AND IS NOT A COOPERATIVE ELECTRIC ASSOCIATION OR A MUNICIPALLY
26 OWNED UTILITY.

27 (d) "MARGINAL COST RATE" MEANS THE RATE CHARGED TO AN

1 INCOME-QUALIFIED UTILITY CUSTOMER THAT IS APPROVED BY THE
2 COMMISSION AS PART OF A UTILITY'S FARE SERVICE PROPOSAL AND
3 ACCOUNTS FOR THE MARGINAL COSTS, ON A PER-UNIT-OF-SERVICE BASIS,
4 THAT AN INVESTOR-OWNED ELECTRIC UTILITY INCURS TO PROVIDE THAT
5 UNIT OF SERVICE TO AN INCOME-QUALIFIED UTILITY CUSTOMER OVER A
6 CONTRACT PERIOD AS IF THE INCOME-QUALIFIED UTILITY CUSTOMER WERE
7 A NEW CUSTOMER, WHICH COSTS INCLUDE:

8 (I) FUEL;
9 (II) PURCHASED POWER;
10 (III) OPERATION AND MAINTENANCE COSTS;
11 (IV) CAPITAL ADDITIONS;
12 (V) OVERHEAD;
13 (VI) TAXES; AND
14 (VII) FEES.

15 (e) "MINIMUM LEVEL OF ELECTRICITY" MEANS THE MINIMUM
16 AMOUNT OF ELECTRICITY, MEASURED IN KILOWATT-HOURS, THAT AN
17 AVERAGE INCOME-QUALIFIED UTILITY CUSTOMER IN AN INVESTOR-OWNED
18 ELECTRIC UTILITY'S SERVICE TERRITORY WOULD LIKELY USE IN AN
19 AVERAGE MONTH TO SUPPORT THE CUSTOMER'S BASIC LIVING NEEDS, AS
20 PROPOSED BY AN INVESTOR-OWNED ELECTRIC UTILITY AND APPROVED BY
21 THE COMMISSION.

22 (2) (a) NOTWITHSTANDING ANY OTHER PROVISION OF ARTICLES 1
23 TO 7 OF THIS TITLE 40 TO THE CONTRARY, AN INVESTOR-OWNED ELECTRIC
24 UTILITY SHALL PROVIDE FARE SERVICE TO INCOME-QUALIFIED UTILITY
25 CUSTOMERS IN THE INVESTOR-OWNED ELECTRIC UTILITY'S SERVICE
26 TERRITORY.

27 (b) AN INVESTOR-OWNED ELECTRIC UTILITY MAY CHARGE AN

1 INCOME-QUALIFIED UTILITY CUSTOMER ENROLLED IN THE UTILITY'S FARE
2 SERVICE PROGRAM THE UTILITY'S APPROVED RESIDENTIAL ELECTRICITY
3 RATE FOR ANY AMOUNT OF ELECTRICITY USED BY THE CUSTOMER THAT IS
4 ABOVE THE MINIMUM LEVEL OF ELECTRICITY.

5 (3)(a) AS PART OF AN INVESTOR-OWNED ELECTRIC UTILITY'S FIRST
6 RATE CASE FILED WITH THE COMMISSION ON OR AFTER JANUARY 1, 2027,
7 THE INVESTOR-OWNED ELECTRIC UTILITY SHALL SUBMIT A PROPOSAL TO
8 PROVIDE FARE SERVICE TO INCOME-QUALIFIED UTILITY CUSTOMERS IN
9 THE INVESTOR-OWNED ELECTRIC UTILITY'S SERVICE TERRITORY.

10 (b) THE FARE SERVICE PROPOSAL SUBMITTED BY AN
11 INVESTOR-OWNED ELECTRIC UTILITY PURSUANT TO SUBSECTION (3)(a) OF
12 THIS SECTION MUST INCLUDE:

13 (I) THE AMOUNT OF ELECTRICITY THAT QUALIFIES AS A MINIMUM
14 LEVEL OF ELECTRICITY FOR AN AVERAGE INCOME-QUALIFIED UTILITY
15 CUSTOMER IN THE UTILITY'S SERVICE TERRITORY BASED ON THE AVERAGE
16 MONTHLY USAGE BY AN INCOME-QUALIFIED UTILITY CUSTOMER TO
17 SUPPORT THE CUSTOMER'S BASIC LIVING NEEDS;

18 (II) A MARGINAL COST RATE ON A PER-KILOWATT-HOUR BASIS FOR
19 DELIVERING ELECTRICITY TO AN INCOME-QUALIFIED UTILITY CUSTOMER
20 IN THE UTILITY'S SERVICE TERRITORY; AND

21 (III) A DESCRIPTION OF THE PROCESS BY WHICH AN
22 INCOME-QUALIFIED UTILITY CUSTOMER MAY ENROLL IN AND RECEIVE
23 SERVICE THROUGH THE FARE SERVICE PROGRAM OFFERED BY THE
24 INVESTOR-OWNED ELECTRIC UTILITY.

25 (4)(a) THE MARGINAL COST RATE INCLUDED IN A FARE SERVICE
26 PROPOSAL MUST BE LOWER THAN THE RATE OR RATES THAT THE
27 INCOME-QUALIFIED UTILITY CUSTOMER WOULD BE OR CURRENTLY IS

1 SUBJECT TO UNDER THE RESIDENTIAL RATE SET FORTH IN THE
2 INVESTOR-OWNED ELECTRIC UTILITY'S TARIFFS IN EFFECT AT THE TIME THE
3 INCOME-QUALIFIED UTILITY CUSTOMER APPLIES TO RECEIVE THE FARE
4 SERVICE FROM THE INVESTOR-OWNED ELECTRIC UTILITY.

5 (b) THE MARGINAL COST RATE INCLUDED IN THE FARE SERVICE
6 MUST BE COMPARABLE TO THE INVESTOR-OWNED ELECTRIC UTILITY'S
7 MARGINAL COST OF PROVIDING SERVICE TO A NEW INCOME-QUALIFIED
8 UTILITY CUSTOMER.

9 (c) THE IMPLEMENTATION OF THE FARE SERVICE MUST NOT
10 DIRECTLY INCREASE THE COST OF UTILITY SERVICE FOR CUSTOMERS OF
11 THE INVESTOR-OWNED ELECTRIC UTILITY.

12 (d) IF AN INVESTOR-OWNED ELECTRIC UTILITY INCLUDES
13 CALCULATIONS AND ANALYSES IN THE UTILITY'S FARE SERVICE PROPOSAL
14 THAT INDICATE THAT THE COST OF UTILITY SERVICE FOR OTHER
15 CUSTOMERS WILL INCREASE AS A DIRECT RESULT OF THE UTILITY
16 IMPLEMENTING THE FARE SERVICE, THE COMMISSION, IN ITS
17 DETERMINATION OF THE UTILITY'S ANTICIPATED PROFIT FOR THE RATE
18 CASE PERIOD, SHALL CALCULATE THAT ANTICIPATED PROFIT BASED ON AN
19 ANTICIPATED PROFIT AMOUNT REDUCED BY THE DOCUMENTED
20 COST-OF-SERVICE IMPACT ON OTHER CUSTOMERS RESULTING FROM THE
21 IMPLEMENTATION OF THE UTILITY'S FARE SERVICE.

22 (5) THE COMMISSION SHALL APPROVE A FARE SERVICE PROPOSAL
23 SUBMITTED IN COMPLIANCE WITH SUBSECTIONS (3) AND (4) OF THIS
24 SECTION IF THE COMMISSION DETERMINES THAT THE PROPOSAL IS IN THE
25 PUBLIC INTEREST.

26 (6) (a) THE COMMISSION MAY APPROVE AN INVESTOR-OWNED
27 ELECTRIC UTILITY'S FARE SERVICE PROPOSAL AND SET A MINIMUM AND

1 MAXIMUM AMOUNT FOR THE MARGINAL COST RATE THAT IS CONSISTENT
2 WITH THE REQUIREMENTS OF SUBSECTIONS (2), (3), AND (4) OF THIS
3 SECTION.

4 (b) THE COMMISSION MAY ADOPT ANY RULES NECESSARY TO
5 IMPLEMENT THIS SECTION.

6 (7) RATES CHARGED TO INCOME-QUALIFIED UTILITY CUSTOMERS
7 UNDER AN INVESTOR-OWNED ELECTRIC UTILITY'S APPROVED FARE
8 SERVICE SHALL NOT BE DEEMED UNFAIR, UNJUST, OR DISCRIMINATORY IN
9 VIOLATION OF SECTION 40-3-101 (1).

10 **SECTION 3. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2026 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.