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HOUSE BILL 25-1177

BY REPRESENTATIVE(S) Mauro and Winter T., Bird, Martinez, Clifford;
also SENATOR(S) Hinrichsen and Pelton B., Roberts.

CONCERNING ADJUSTMENTS TO THE ECONOMIC DEVELOPMENT RATE TARIFF.

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

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

40-3-104.3. Manner of regulation - competitive responses - economic development rate - definitions - repeal. (6) (b) (I) (A) An economic development rate approved pursuant to this section **MUST BE IN THE PUBLIC INTEREST AND** must be lower than the rate or rates that the qualifying commercial or industrial customer would be or currently is subject to under the INVESTOR-OWNED ELECTRIC utility's tariffs in effect at the time the qualifying commercial or industrial customer seeks to qualify for the economic development rate; except that an economic development rate must not be lower than the utility's marginal cost of providing service

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.

to the qualifying commercial or industrial customer. AN ECONOMIC DEVELOPMENT RATE MUST NOT DIRECTLY INCREASE COSTS OF ELECTRIC SERVICE FOR OTHER CUSTOMERS.

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

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

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

(B) NOTWITHSTANDING SUBSECTION (6)(b)(III)(A) OF THIS SECTION, THE INVESTOR-OWNED ELECTRIC UTILITY MAY PROPOSE, AND THE COMMISSION MAY CONSIDER APPROVING, AN ECONOMIC DEVELOPMENT RATE TO A QUALIFYING COMMERCIAL OR INDUSTRIAL CUSTOMER FOR A PERIOD OF

GREATER THAN TEN YEARS, BUT NO MORE THAN TWENTY-FIVE YEARS.

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

(c) (I) An ~~authorization~~ APPROVAL granted by the commission pursuant to this section must include such terms and conditions as the commission determines are necessary to ensure that the economic development rates or charges assessed to other customers do not subsidize the cost of providing service to qualifying commercial and industrial customers consistent with subsection (6)(b)(I) of this section and that there is no other subsidization of such service. In ~~developing~~ APPROVING the terms and conditions OF AN ECONOMIC DEVELOPMENT RATE, the commission shall consider, among other things:

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

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

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

(IV) FOLLOWING A NOTICE PERIOD OF FOURTEEN BUSINESS DAYS AFTER AN INVESTOR-OWNED ELECTRIC UTILITY FILES AN APPLICATION FOR APPROVAL OF ECONOMIC DEVELOPMENT RATES, AND THE ADDITION OR EXPANSION OF EXISTING LOAD AT A SINGLE LOCATION THAT IS FORTY-ONE OR MORE MEGAWATTS, THE COMMISSION SHALL APPROVE OR DENY THE

APPLICATION WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EXPIRATION OF THE NOTICE PERIOD.

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

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

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

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

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

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

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

(a) "MARGINAL COST" MEANS THE INCREMENTAL ADDITIONAL COST THAT AN INVESTOR-OWNED ELECTRIC UTILITY INCURS AND CHARGES TO SERVE AN ELECTRIC CUSTOMER OVER THE CONTRACT PERIOD, WHICH ADDITIONAL COSTS WOULD NOT HAVE BEEN INCURRED IF THE CUSTOMER DID NOT TAKE SERVICE ON THE UTILITY'S SYSTEM, INCLUDING, BUT NOT LIMITED TO:

- (I) FUEL;
- (II) PURCHASED POWER;
- (III) OPERATING AND MAINTENANCE COSTS;
- (IV) CAPITAL ADDITIONS;
- (V) OVERHEAD;
- (VI) TAXES; AND
- (VII) FEES.

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

(I) Means a utility customer that:

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

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

(II) Does not include a customer that agrees to relocate or otherwise transfer its existing load of at least three megawatts from the service

territory of another public utility, as defined in section 40-1-103, into the service territory of the utility offering economic development rates.

(c) "SOCIETAL ECONOMIC BENEFIT TEST" MEANS A TEST THAT INCLUDES BUT IS NOT LIMITED TO:

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

(II) THE ECONOMIC DEVELOPMENT BENEFITS, INCLUDING:

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

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

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

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

(8) ~~This subsection (8) and~~ Subsections (6) and (7) of this section AND THIS SUBSECTION (8) are repealed, effective January 1, ~~2028~~ 2035.

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

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO