

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0700.01 Kate Meyer

SENATE BILL 11-113

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SENATE SPONSORSHIP

King S.,

HOUSE SPONSORSHIP

(None),

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Senate Committees  
State, Veterans & Military Affairs

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE IMPOSITION OF LIMITATIONS ON ACTIONS TAKEN BY  
102 A PUBLIC UTILITY WITH RESPECT TO ENVIRONMENTAL LAWS.

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://www.leg.state.co.us/billsummaries>.)*

**Sections 2 and 3** of the bill prohibit the public utilities commission (commission) from considering speculative costs to a utility due to potential laws or regulations or future costs associated with increased greenhouse gas emissions, but allows the commission to consider actual costs incurred by complying with federal or state laws.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

Section 2 also allows the commission to consider whether carbon-free generation reduces costs incurred and paid by utilities due to federal or state carbon emissions regulation.

House Bill 10-1365 created the "Clean Air - Clean Jobs Act" (act), which directs rate-regulated electric utilities (utilities) to create plans to achieve reduced emissions from coal-fired power plants (plans). The act specifies the extent to which costs in implementing plans are recoverable by utilities. **Section 4** caps the amount that may be recovered from a retail customer at 2% of the rate the customer was paying prior to passage of the act.

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

**SECTION 1. Short title.** This act shall be known and may be cited as the "Ratepayer Protection Act of 2011".

**SECTION 2.** 40-2-123 (1) (b) and (3) (b) (V), Colorado Revised Statutes, are amended to read:

**40-2-123. New energy technologies - consideration by commission - incentives - demonstration projects - definitions - legislative declaration - repeal.** (1) (b) The commission ~~may~~ SHALL NOT give consideration to the likelihood of new environmental regulation ~~and~~ OR the risk of higher future costs associated with the emission of greenhouse gases such as carbon dioxide; ~~when it considers utility proposals to acquire resources~~ HOWEVER, THE COMMISSION MAY CONSIDER COSTS A UTILITY ACTUALLY AND REASONABLY INCURS DUE TO COMPLIANCE WITH LAWS AND REGULATIONS PROMULGATED BY STATE AND FEDERAL AUTHORITIES. 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.

(3) (b) The commission may consider whether acquisition of utility-scale solar resources is in the public interest, taking into account

1 the associated costs and benefits, and, if so, the appropriate amount of  
2 utility-scale solar resources that should be acquired. In making this  
3 determination, the commission may consider the following potential  
4 attributes of utility-scale solar electric generation:

5 (V) Whether carbon-free generation reduces ~~long-term costs and~~  
6 ~~risks related to potential~~ ACTUALLY INCURRED AND PAID BY A UTILITY DUE  
7 TO FEDERAL OR STATE carbon ~~regulation or taxation~~ EMISSIONS  
8 REGULATIONS.

9 **SECTION 3.** The introductory portion to 40-2-124 (1) and  
10 40-2-124 (1) (g) (I) (A), Colorado Revised Statutes, are amended to read:

11 **40-2-124. Renewable energy standard - definitions - net**  
12 **metering - legislative declaration.** (1) Each provider of retail electric  
13 service in the state of Colorado, other than municipally owned utilities  
14 that serve forty thousand customers or fewer, ~~shall be considered~~ IS a  
15 qualifying retail utility. Each qualifying retail utility, with the exception  
16 of cooperative electric associations that have voted to exempt themselves  
17 from commission jurisdiction pursuant to section 40-9.5-104 and  
18 municipally owned utilities, ~~shall be~~ IS subject to the rules established  
19 under this article by the commission. No additional regulatory authority  
20 of the commission other than that specifically contained in this section is  
21 provided or implied. In accordance with article 4 of title 24, C.R.S., the  
22 commission shall revise or clarify existing rules to establish the  
23 following:

24 (g) Retail rate impact rule:

25 (I) (A) Except as otherwise provided in subparagraph (IV) of this  
26 paragraph (g), for each qualifying utility, the commission shall establish  
27 a maximum retail rate impact for this section, INCLUDING THE COSTS OF

1 ALL NEW RESOURCES USED TO MEET THE REQUIREMENTS OF  
2 SUBPARAGRAPH (I) OF PARAGRAPH (c) OF THIS SUBSECTION (1), of two  
3 percent of the total electric bill annually for each customer. The retail  
4 rate impact ~~shall~~ MUST be determined net of new alternative sources of  
5 electricity supply from noneligible energy resources that are reasonably  
6 available at the time of the determination. IN DETERMINING THE RETAIL  
7 RATE IMPACT, THE COMMISSION SHALL NOT CONSIDER THE LIKELIHOOD OF  
8 NEW ENVIRONMENTAL REGULATION OR THE RISK OF HIGHER FUTURE COSTS  
9 ASSOCIATED WITH THE EMISSION OF GREENHOUSE GASES SUCH AS CARBON  
10 DIOXIDE, BUT THE COMMISSION MAY CONSIDER COSTS ACTUALLY  
11 INCURRED AND PAID BY A QUALIFYING RETAIL UTILITY DUE TO  
12 COMPLIANCE WITH FEDERAL OR STATE REGULATION OF GREENHOUSE GAS  
13 EMISSIONS.

14 **SECTION 4.** 40-3.2-207, Colorado Revised Statutes, is amended  
15 BY THE ADDITION OF A NEW SUBSECTION to read:

16 **40-3.2-207. Cost recovery - legislative declaration.**  
17 (7) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE  
18 EMISSION REDUCTION PLAN COSTS THAT A PUBLIC UTILITY IS PERMITTED  
19 TO RECOVER FROM ITS RETAIL CUSTOMERS MUST NOT EXCEED A MAXIMUM  
20 RATE IMPACT OF TWO PERCENT OF THE ANNUAL TOTAL ELECTRIC BILL FOR  
21 EACH CUSTOMER.

22 **SECTION 5. Safety clause.** The general assembly hereby finds,  
23 determines, and declares that this act is necessary for the immediate  
24 preservation of the public peace, health, and safety.