

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0733.01 Duane Gall x4335

SENATE BILL 17-089

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SENATE SPONSORSHIP

Fenberg, Lundberg, Garcia, Guzman

HOUSE SPONSORSHIP

(None),

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Senate Committees

Business, Labor, & Technology

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE RIGHTS OF CONSUMERS OF ELECTRICITY TO INSTALL  
102 ELECTRICITY STORAGE SYSTEMS ON THEIR PROPERTY.

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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 declares that consumers of electricity have a right to install and use electricity storage systems on their property, and this will enhance the reliability and efficiency of the electric grid, save money, and reduce the need for additional electric generation facilities.

The bill directs the Colorado public utilities commission to adopt rules under which:

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.*

- ! Residential and small commercial consumers can install electricity storage systems with a discharge rate of up to 25 kilowatts (kW) alternating current (AC) for later use or to provide backup in case of an outage;
- ! The utility and interconnection approval process for photovoltaic plus storage systems must be simple and streamlined, subject to electrical code and safety requirements but not more complex than existing approval requirements for photovoltaic installations;
- ! A utility whose customer installs electricity storage must use only a single revenue meter unless the storage system exceeds a discharge rate of 25 kW AC; and
- ! Any applicable standby charges, minimum charges, additional meter charges, or other fees or charges are identical as between customers with electricity storage systems and those without.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 40-2-130 as  
 3 follows:

4           **40-2-130. Distributed resources - electricity storage systems -**  
 5 **definitions - legislative declaration - rules. (1) Legislative declaration.**

6 (a) THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

7           (I) COLORADO'S ECONOMY, AS WELL AS THE HEALTH AND SAFETY  
 8 OF ITS RESIDENTS, DEPENDS ON A RELIABLE AND EFFICIENT SUPPLY OF  
 9 ELECTRICITY;

10           (II) THE THREAT OF INTERRUPTIONS IN ELECTRIC SUPPLY DUE TO  
 11 WEATHER, MALICIOUS INTERFERENCE, OR MALFUNCTIONS IN CENTRALIZED  
 12 GENERATION AND TRANSMISSION FACILITIES MAKE DISTRIBUTED  
 13 RESOURCES, INCLUDING ELECTRICITY STORAGE SYSTEMS, AN IMPORTANT  
 14 PART OF A ROBUST, RESILIENT ELECTRICAL GRID; AND

15           (III) DISTRIBUTED STORAGE OF ELECTRICITY CAN HELP SMOOTH  
 16 OUT PEAKS AND VALLEYS IN ELECTRICAL DEMAND, OFFSETTING THE NEED

1 FOR EXPENSIVE ADDITIONAL FACILITIES OR POWER PURCHASES DURING  
2 PEAK DEMAND PERIODS AS WELL AS FACILITATING THE IMPROVED USE OF  
3 VARIABLE RENEWABLE SOURCES.

4 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

5 (I) IT IS IN THE PUBLIC INTEREST TO ENCOURAGE THE  
6 INSTALLATION AND USE OF CUSTOMER-SITED ELECTRICITY STORAGE  
7 FACILITIES IN COLORADO; AND

8 (II) ACCORDINGLY, COLORADO'S CONSUMERS OF ELECTRICITY  
9 HAVE A RIGHT TO INSTALL AND USE ELECTRICITY STORAGE SYSTEMS ON  
10 THEIR PROPERTY WITHOUT BURDENSOME RESTRICTIONS OR REGULATIONS  
11 AND WITHOUT BEING SUBJECT TO DISCRIMINATORY RATES. THE GENERAL  
12 ASSEMBLY INTENDS THAT ALL SUPPLIERS OF ELECTRICITY, WHETHER  
13 SUBJECT TO OR EXEMPTED FROM REGULATION BY THE COMMISSION, SHALL  
14 FOLLOW SUBSTANTIALLY THE SAME RULES AND PRACTICES AS ADOPTED BY  
15 THE COMMISSION UNDER THIS SECTION FOR UTILITIES SUBJECT TO  
16 REGULATION BY THE COMMISSION.

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

19 (a) "ELECTRICITY STORAGE SYSTEM" MEANS ANY SYSTEM,  
20 INCLUDING BATTERIES, LOCATED ON PREMISES OWNED OR LEASED BY A  
21 CUSTOMER OF AN ELECTRIC UTILITY AND:

22 (I) THAT STORES ELECTRICAL ENERGY IN A FORM THAT IS  
23 CONVERTIBLE TO ALTERNATING CURRENT AT A FREQUENCY OF SIXTY  
24 CYCLES PER SECOND;

25 (II) DOES NOT EXCEED A DISCHARGE RATE OF TWENTY-FIVE  
26 KILOWATTS ALTERNATING CURRENT, REGARDLESS OF THE TOTAL AMOUNT  
27 OF ELECTRICITY STORED;

1 (III) IS DESIGNED AND CONSTRUCTED IN A WAY THAT ALLOWS IT  
2 TO BE CONNECTED TO A BUILDING'S NORMAL ALTERNATING CURRENT  
3 ELECTRICAL SUPPLY SYSTEM; AND

4 (IV) WHOSE PRIMARY PURPOSE IS TO STORE ELECTRICITY:

5 (A) FOR LATER USE BY THE CUSTOMER; OR

6 (B) TO PROVIDE BACKUP FOR TIMES WHEN ELECTRICITY FROM THE  
7 GRID IS NOT AVAILABLE.

8 (b) "UTILITY" MEANS ANY SUPPLIER OF ELECTRICITY TO RETAIL  
9 CUSTOMERS IN COLORADO. THE TERM INCLUDES INVESTOR-OWNED  
10 UTILITIES, MUNICIPALLY OWNED UTILITIES, AND COOPERATIVE ELECTRIC  
11 ASSOCIATIONS, BOTH EXEMPT AND NONEXEMPT.

12 (3) **Authority of commission - rules.** ON OR BEFORE OCTOBER 1,  
13 2017, THE COMMISSION SHALL INITIATE A RULE-MAKING PROCEEDING TO  
14 ADOPT RULES GOVERNING THE INSTALLATION AND USE OF  
15 CUSTOMER-SITED ELECTRICITY STORAGE SYSTEMS BY CUSTOMERS OF  
16 UTILITIES SUBJECT TO REGULATION BY THE COMMISSION. THE RULES MUST  
17 PROVIDE, AT A MINIMUM, THAT:

18 (a) ANY UTILITY APPROVAL PROCESSES AND INTERCONNECTION  
19 REVIEWS OF ELECTRICITY STORAGE SYSTEMS THAT ARE INSTALLED  
20 TOGETHER WITH, OR CONNECTED TO, CUSTOMER-SITED PHOTOVOLTAIC  
21 GENERATION EQUIPMENT ARE SIMPLE, STREAMLINED, AND NOT  
22 COST-PROHIBITIVE TO THE CUSTOMER. IF A UTILITY IS SUBJECT TO  
23 REGULATION BY THE COMMISSION, THE COMMISSION SHALL REQUIRE THE  
24 UTILITY'S APPROVAL OR INTERCONNECTION REVIEWS OR RULES TO BE  
25 SUFFICIENT TO ENSURE BASIC SAFETY WITHOUT IMPOSING REQUIREMENTS  
26 THAT ARE BURDENSOME OR DUPLICATIVE OF EXISTING BUILDING CODES  
27 AND STANDARDS, AND WITHOUT BEING MORE COMPLICATED THAN THE

1 SMALL GENERATOR INTERCONNECTION PROCEDURES UNDER 4 CCR 723-3,  
2 RULE 3667, AS IT EXISTED ON JANUARY 1, 2017.

3 (b) IF AN ELECTRICITY STORAGE SYSTEM IS NOT COUPLED WITH  
4 CUSTOMER-SITED ELECTRICITY GENERATION EQUIPMENT AND WILL NOT BE  
5 EXPORTING ELECTRICITY TO THE GRID, NO UTILITY APPROVAL OR  
6 INTERCONNECTION REVIEW IS REQUIRED AND A UTILITY SUBJECT TO  
7 REGULATION BY THE COMMISSION SHALL NOT CHARGE THE CUSTOMER A  
8 FEE FOR HAVING OR USING THE ELECTRICITY STORAGE SYSTEM;

9 (c) THE COST TO THE CUSTOMER FOR APPROVAL OF THE  
10 INTERCONNECTION OF AN ELECTRICITY STORAGE SYSTEM COUPLED WITH  
11 A PHOTOVOLTAIC SYSTEM SHALL BE CONSIDERED AS ALREADY INCLUDED  
12 IN THE INTERCONNECTION FEES FOR A PHOTOVOLTAIC SYSTEM WITHOUT  
13 STORAGE;

14 (d) A UTILITY SUBJECT TO REGULATION BY THE COMMISSION SHALL  
15 NOT:

16 (I) REQUIRE THE INSTALLATION OF A SEPARATE METER BEYOND  
17 THE SINGLE REVENUE METER THAT IS THE DEMARCATION BETWEEN THE  
18 UTILITY AND THE BUILDING OWNER FOR ANY PURPOSE; OR

19 (II) IMPLEMENT STANDBY CHARGES, MINIMUM CHARGES,  
20 ADDITIONAL METER CHARGES, OR OTHER FEES ON THE CUSTOMER'S  
21 ELECTRICITY STORAGE SYSTEM UNLESS THE SAME CHARGES, MINIMUMS,  
22 OR FEES ARE APPLIED TO ALL SIMILARLY SITUATED CUSTOMERS WITHOUT  
23 ELECTRICITY STORAGE SYSTEMS.

24 (4) **Compliance by nonjurisdictional utilities - penalties.**  
25 NOTWITHSTANDING ANY PROVISION OF THIS TITLE 40 TO THE CONTRARY,  
26 A UTILITY THAT IS NOT SUBJECT TO REGULATION BY THE COMMISSION  
27 SHALL SUBSTANTIALLY COMPLY WITH THE RULES ADOPTED BY THE

1 COMMISSION UNDER SUBSECTION (3) OF THIS SECTION, ON AND AFTER THE  
2 EFFECTIVE DATE OF THOSE RULES. FAILURE OR REFUSAL OF A UTILITY OR  
3 ITS AGENTS TO COMPLY IS PUNISHABLE BY ALL APPLICABLE PENALTIES IN  
4 ARTICLE 7 OF THIS TITLE 40.

5 **SECTION 2. Act subject to petition - effective date.** This act  
6 takes effect at 12:01 a.m. on the day following the expiration of the  
7 ninety-day period after final adjournment of the general assembly (August  
8 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a  
9 referendum petition is filed pursuant to section 1 (3) of article V of the  
10 state constitution against this act or an item, section, or part of this act  
11 within such period, then the act, item, section, or part will not take effect  
12 unless approved by the people at the general election to be held in  
13 November 2018 and, in such case, will take effect on the date of the  
14 official declaration of the vote thereon by the governor.