

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 14-0249.01 Jennifer Berman

HOUSE BILL

HOUSE SPONSORSHIP

Coram and Mitsch Bush, Fischer, Sonnenberg, Vigil

SENATE SPONSORSHIP

Schwartz and Roberts, Hodge

House Committees

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ESTABLISHMENT OF INCENTIVES FOR THE
102 DEVELOPMENT OF HYDROELECTRIC ENERGY SYSTEMS.

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>.)

Water Resources Review Committee. In order to promote the construction and operation of hydroelectric energy facilities in Colorado, the bill provides the following incentives:

- **Section 1** of the bill requires the state electrical board to approve the installation of a motor as a generator for a

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.

- hydroelectric energy facility if the installation would be approved but for the fact that the motor is not being used in a manner commensurate with its nameplate;
- **Section 2** authorizes the department of natural resources to serve as the coordinating state agency for obtaining and compiling state agency comments about an application for a license or license exemption from the federal energy regulatory commission; and
 - **Section 3** incorporates community hydroelectric energy facilities into the community solar garden statute, so that a group of community members may jointly subscribe to and receive electricity from a small hydroelectric energy facility located in or near the community.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-23-104, **amend**
3 (2) (f) and (2) (g) as follows:

4 **12-23-104. Board powers and duties - rules.** (2) In addition to
5 all other powers and duties conferred or imposed upon the board by this
6 article, the board is authorized to:

7 (f) Inspect and approve or disapprove the installation of electrical
8 wiring, renewable energy systems, apparatus, or equipment for electric
9 light, heat, and power according to the minimum standards in the national
10 electrical code or as prescribed in this article. WITH RESPECT TO A
11 HYDROELECTRIC ENERGY FACILITY, AN INSPECTOR SHALL APPROVE THE
12 INSTALLATION OF A MOTOR AS A GENERATOR IF THE INSTALLATION WOULD
13 BE APPROVED BUT FOR THE FACT THAT THE MOTOR IS NOT BEING USED IN
14 A MANNER COMMENSURATE WITH ITS NAMEPLATE.

15 (g) Review and approve or disapprove requests for exceptions to
16 the national electrical code in unique construction situations where a strict
17 interpretation of the code would result in unreasonable operational
18 conditions or unreasonable economic burdens, as long as public safety is

1 not compromised. PURSUANT TO PARAGRAPH (f) OF THIS SUBSECTION (2),
2 THE BOARD SHALL APPROVE ANY REQUEST SUBMITTED BEFORE THE
3 EFFECTIVE DATE OF THIS PARAGRAPH (g), AS AMENDED, AND NOT YET
4 ACTED UPON BY THE EFFECTIVE DATE FOR A HYDROELECTRIC ENERGY
5 FACILITY'S USE OF A MOTOR AS A GENERATOR.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 24-33-117 as
7 follows:

8 **24-33-117. State agency coordination of review of federal**
9 **license and license exemption applications for hydroelectric energy**
10 **projects - legislative declaration - definitions - rules. (1) Legislative**
11 **declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
12 THAT:

13 (a) HYDROELECTRIC ENERGY IS A RELIABLE, AFFORDABLE, AND
14 SUSTAINABLE ENERGY SOURCE AND IS THE LARGEST SOURCE OF CLEAN
15 ENERGY IN THE UNITED STATES;

16 (b) AS OF 2005, THERE WERE SIXTY-TWO OPERATING
17 HYDROELECTRIC ENERGY FACILITIES THROUGHOUT COLORADO, WITH A
18 COMBINED CAPACITY OF ONE THOUSAND ONE HUNDRED AND SIXTY-TWO
19 MEGAWATTS;

20 (c) ACCORDING TO A RECENT BUREAU OF RECLAMATION STUDY,
21 COLORADO CURRENTLY HAS MORE THAN THIRTY SITES ON WHICH NEW
22 HYDROELECTRIC ENERGY FACILITIES COULD BE PLACED, AND A FEDERAL
23 DEPARTMENT OF ENERGY REPORT IDENTIFIES ANOTHER ELEVEN POTENTIAL
24 SITES. IF ALL OF THE IDENTIFIED SITES WERE CONSTRUCTED, THEY COULD
25 POWER OVER SIXTY-FIVE THOUSAND HOMES EACH YEAR.

26 (d) (I) TO CONSTRUCT, OPERATE, OR MAINTAIN A NONFEDERAL
27 HYDROELECTRIC ENERGY FACILITY, A PERSON MUST APPLY TO FERC FOR

1 A LICENSE OR A LICENSE EXEMPTION IF THE FACILITY IS LOCATED ON
2 NAVIGABLE WATERS IN THE UNITED STATES, OCCUPIES LANDS OF THE
3 UNITED STATES, UTILIZES SURPLUS WATER OR WATER POWER FROM A
4 UNITED STATES GOVERNMENT DAM, OR, UNDER SOME CIRCUMSTANCES,
5 IS LOCATED ON A STREAM OVER WHICH THE UNITED STATES CONGRESS
6 HAS COMMERCE CLAUSE JURISDICTION;

7 (II) AS PART OF FERC'S LICENSING PROCESS, AN APPLICANT FOR
8 A HYDROELECTRIC ENERGY FACILITY LICENSE OR LICENSE EXEMPTION
9 MUST MEET SPECIFIC PREFILING CONSULTING REQUIREMENTS, INCLUDING
10 A REQUIREMENT TO CONSULT WITH RELEVANT STATE AGENCIES ABOUT
11 THE PROPOSED PROJECT AND TO PROVIDE THOSE AGENCIES WITH AN
12 OPPORTUNITY TO COMMENT ON THE APPLICATION AND REQUEST ANY
13 STUDIES THAT MAY BE RELEVANT TO THE PROPOSED PROJECT;

14 (III) TO PROMOTE THE CONSTRUCTION AND OPERATION OF NEW
15 HYDROELECTRIC ENERGY FACILITIES, THE UNITED STATES CONGRESS
16 PASSED THE "HYDROPOWER REGULATORY EFFICIENCY ACT OF 2013",
17 FEDERAL PUBLIC LAW 113-23, AS AMENDED, WHICH EXEMPTS CERTAIN
18 HYDROELECTRIC ENERGY FACILITIES THAT HAVE AN INSTALLED CAPACITY
19 OF FEWER THAN TEN THOUSAND KILOWATTS FROM THE LICENSING
20 REQUIREMENTS AND STREAMLINES THE APPROVAL PROCESS FOR
21 HYDROELECTRIC ENERGY FACILITIES GENERALLY; AND

22 (e) TO FURTHER PROMOTE THE CONSTRUCTION AND OPERATION OF
23 NEW HYDROELECTRIC ENERGY FACILITIES IN COLORADO, THE ROLE OF
24 STATE AGENCIES IN CONSULTING ON A HYDROELECTRIC ENERGY FACILITY
25 APPLICATION FOR A FEDERAL LICENSE OR LICENSE EXEMPTION SHOULD BE
26 STREAMLINED. TO THAT END, THE GENERAL ASSEMBLY DESIGNATES THE
27 DEPARTMENT AS THE COORDINATING STATE AGENCY TO FACILITATE A

1 SINGLE STATE AGENCY REVIEW OF A PROPOSED PROJECT.

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

4 (a) "APPLICANT" MEANS A PERSON APPLYING FOR A FERC LICENSE
5 OR LICENSE EXEMPTION FOR A HYDROELECTRIC ENERGY FACILITY.

6 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
7 RESOURCES.

8 (c) "FERC" MEANS THE FEDERAL ENERGY REGULATORY
9 COMMISSION.

10 (d) "HYDROELECTRIC ENERGY" MEANS THE GENERATION AND
11 DELIVERY TO THE INTERCONNECTION METER OF ANY SOURCE OF
12 ELECTRICAL OR MECHANICAL ENERGY BY HARNESSING THE KINETIC
13 ENERGY OF WATER. "HYDROELECTRIC ENERGY" INCLUDES PUMPED
14 HYDROELECTRICITY, AS DEFINED IN SECTION 40-2-123 (3.2)(c)(II), C.R.S.

15 (3) **Coordination of state agency review by the department of**
16 **natural resources.** (a) AN APPLICANT IN COLORADO MUST CONTACT,
17 AND SUBMIT RELEVANT DOCUMENTATION TO, THE DEPARTMENT FOR THE
18 PURPOSE OF OBTAINING STATE AGENCY REVIEW OF HIS OR HER FERC
19 APPLICATION, AS REQUIRED AS PART OF THE CONSULTATION
20 REQUIREMENTS SET FORTH IN 18 C.F.R. 4.38 CONCERNING FERC LICENSE
21 AND LICENSE EXEMPTION PROCEDURES.

22 (b) THE DEPARTMENT SHALL COORDINATE STATE AGENCY REVIEW
23 OF THE APPLICATION BY PROVIDING THE FOLLOWING TO ALL RELEVANT
24 STATE AGENCIES WITH POTENTIAL INTEREST IN THE APPLICANT'S
25 HYDROELECTRIC ENERGY PROJECT:

26 (I) NOTICE VIA EMAIL OF THE APPLICATION;

27 (II) ELECTRONIC COPIES OF ANY DOCUMENTATION RECEIVED FROM

1 THE APPLICANT;
2 (III) A GENERAL DESCRIPTION OF THE FERC REVIEW PROCESS; AND
3 (IV) THE DEADLINE BY WHICH THE OTHER STATE AGENCIES MUST
4 SUBMIT ANY COMMENTS ABOUT THE APPLICATION TO THE DEPARTMENT.
5 THE DEPARTMENT SHALL SET A DEADLINE THAT IS SUFFICIENTLY IN
6 ADVANCE OF THE EXPIRATION OF THE FORTY-FIVE DAY COMMENT PERIOD
7 PROVIDED FOR BY FERC TO ALLOW THE DEPARTMENT TO COMPILE OTHER
8 AGENCIES' COMMENTS AND ITS OWN COMMENTS FOR TIMELY SUBMISSION
9 TO FERC.

10 (c) UPON THE EXPIRATION OF THE DEADLINE SET BY THE
11 DEPARTMENT FOR OTHER AGENCIES TO REVIEW AN APPLICATION, THE
12 DEPARTMENT SHALL COMPILE ANY COMMENTS FROM OTHER AGENCIES
13 AND ITS OWN COMMENTS AND SUBMIT THE COMMENTS TO FERC BEFORE
14 THE EXPIRATION OF THE COMMENT PERIOD ESTABLISHED BY FERC.
15 THEREAFTER, THE DEPARTMENT SHALL SERVE AS A LIAISON BETWEEN
16 FERC AND THE OTHER STATE AGENCIES CONCERNING ANY DISCUSSION OF
17 THE COMMENTS SUBMITTED.

18 (d) THE DEPARTMENT SHALL PROVIDE INFORMATION ON ITS WEB
19 SITE ABOUT THE STREAMLINED REVIEW PROCESS SET FORTH IN THIS
20 SECTION.

21 (e) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
22 PROMULGATE NECESSARY AND REASONABLE RULES TO IMPLEMENT THIS
23 SECTION, INCLUDING RULE-MAKING CONCERNING THE PROCESS AND
24 DEADLINES FOR DISSEMINATING INFORMATION TO OTHER STATE AGENCIES
25 AND COLLECTING OTHER STATE AGENCIES' COMMENTS.

26 **SECTION 3.** In Colorado Revised Statutes, **amend** 40-2-127 as
27 follows:

1 **40-2-127. Community energy funds - community solar**
2 **gardens - community hydroelectric energy facilities - definitions -**
3 **rules - legislative declaration. (1) Legislative declaration.** The general
4 assembly hereby finds and declares that:

5 (a) Local communities can benefit from the further development
6 of renewable energy, energy efficiency, conservation, and environmental
7 improvement projects, and the general assembly hereby encourages
8 electric utilities to establish community energy funds for the development
9 of such projects;

10 (b) It is in the public interest that broader participation in solar
11 electric AND HYDROELECTRIC ENERGY generation by Colorado residents
12 and commercial entities be encouraged by the development and
13 deployment of distributed solar electric generating facilities, known as
14 community solar gardens, AND DISTRIBUTED HYDROELECTRIC ENERGY
15 FACILITIES, KNOWN AS COMMUNITY HYDROELECTRIC ENERGY FACILITIES,
16 in order to:

17 (I) Provide Colorado residents and commercial entities with the
18 opportunity to participate in solar generation, in addition to the
19 opportunities available for rooftop solar generation on homes and
20 businesses, AND THE OPPORTUNITY TO PARTICIPATE IN HYDROELECTRIC
21 ENERGY GENERATION;

22 (II) Allow renters, low-income utility customers, and agricultural
23 producers to own interests in solar AND HYDROELECTRIC ENERGY
24 generation facilities;

25 (III) Allow interests in solar AND HYDROELECTRIC ENERGY
26 generation facilities to be portable and transferrable; and

27 (IV) Leverage Colorado's solar AND HYDROELECTRIC ENERGY

1 generating capacity through economies of scale.

2 (2) **Definitions.** As used in this section, unless the context
3 otherwise requires:

4 (a) The definitions in section 40-2-124 apply; and

5 (b) In addition:

6 (I) (A) "Community solar garden" means a solar electric
7 generation facility with a nameplate rating of two megawatts or less that
8 is located in or near a community served by a qualifying retail utility
9 where the beneficial use of the electricity generated by the facility
10 belongs to the subscribers to the community solar garden. ~~There shall be~~
11 THE COMMUNITY SOLAR GARDEN MUST HAVE at least ten subscribers. The
12 owner of the community solar garden may be the qualifying retail utility
13 or any other for-profit or nonprofit entity or organization, including a
14 subscriber organization organized under this section, that contracts to sell
15 the output from the community solar garden to the qualifying retail utility.
16 A community solar garden ~~shall be deemed to be~~ IS "located on the site
17 of customer facilities" WITHIN THE MEANING OF SECTION 40-2-124.

18 (B) A community solar garden ~~shall constitute~~ CONSTITUTES
19 "retail distributed generation" within the meaning of section 40-2-124, as
20 amended by House Bill 10-1001, enacted in 2010.

21 (I.5)(A) "COMMUNITY HYDROELECTRIC ENERGY FACILITY" MEANS
22 A HYDROELECTRIC ENERGY GENERATION FACILITY WITH A CAPACITY OF
23 TEN MEGAWATTS OR LESS THAT IS LOCATED IN OR NEAR A COMMUNITY
24 SERVED BY A QUALIFYING RETAIL UTILITY WHERE THE BENEFICIAL USE OF
25 THE ELECTRICITY GENERATED BY THE FACILITY BELONGS TO THE
26 SUBSCRIBERS TO THE COMMUNITY HYDROELECTRIC ENERGY FACILITY. THE
27 TERM ALSO INCLUDES PUMPED HYDROELECTRICITY, AS DEFINED IN

1 SECTION 40-2-123 (3.2) (c) (II). THE COMMUNITY HYDROELECTRIC
2 ENERGY FACILITY MUST HAVE AT LEAST TWO SUBSCRIBERS. THE OWNER
3 OF THE COMMUNITY HYDROELECTRIC ENERGY FACILITY MAY BE A
4 QUALIFYING RETAIL UTILITY OR ANY OTHER FOR-PROFIT OR NONPROFIT
5 ENTITY OR ORGANIZATION, INCLUDING A SUBSCRIBER ORGANIZATION
6 ORGANIZED UNDER THIS SECTION, THAT CONTRACTS TO SELL THE OUTPUT
7 FROM THE COMMUNITY HYDROELECTRIC ENERGY FACILITY TO THE
8 QUALIFYING RETAIL UTILITY. A COMMUNITY HYDROELECTRIC ENERGY
9 FACILITY IS "LOCATED ON THE SITE OF CUSTOMER FACILITIES" WITHIN THE
10 MEANING OF SECTION 40-2-124.

11 (B) A COMMUNITY HYDROELECTRIC ENERGY FACILITY
12 CONSTITUTES "RETAIL DISTRIBUTED GENERATION" WITHIN THE MEANING
13 OF SECTION 40-2-124, AS AMENDED BY HOUSE BILL 10-1001, ENACTED IN
14 2010.

15 (II) "Subscriber" means a retail customer of a qualifying retail
16 utility who owns a subscription and who has identified one or more
17 physical locations to which the subscription ~~shall be~~ IS attributed. Such
18 physical locations ~~shall~~ MUST be within either the same municipality or
19 the same county as the community solar garden OR COMMUNITY
20 HYDROELECTRIC ENERGY FACILITY; except that, if the subscriber lives in
21 a county with a population of less than twenty thousand, according to the
22 most recent available census figures, such physical locations may be in
23 another county, also with a population of less than twenty thousand,
24 within the service territory of the same qualifying retail utility, and ~~also~~
25 adjacent to that of the community solar garden OR COMMUNITY
26 HYDROELECTRIC ENERGY FACILITY. The subscriber may change from time
27 to time the premises to which the ELECTRICITY GENERATION FROM THE

1 community solar garden ~~electricity generation shall be~~ OR COMMUNITY
2 HYDROELECTRIC ENERGY IS attributed, so long as the premises are within
3 the geographical limits allowed for a subscriber.

4 (III) "Subscription" means a proportional interest in solar electric
5 generation facilities installed at a community solar garden OR IN A
6 COMMUNITY HYDROELECTRIC ENERGY FACILITY, together with the
7 renewable energy credits associated with or attributable to such facilities
8 under section 40-2-124. Each subscription ~~shall~~ MUST be sized to
9 represent at least one kilowatt of the community solar garden's OR
10 COMMUNITY HYDROELECTRIC ENERGY FACILITY'S generating capacity and
11 to supply no more than one hundred twenty percent of the average annual
12 consumption of electricity by each subscriber at the premises to which the
13 subscription is attributed, with a deduction for the amount of any existing
14 solar facilities at such premises. Subscriptions in a community solar
15 garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY may be
16 transferred or assigned to a subscriber organization or to any person or
17 entity who qualifies to be a subscriber under this section.

18 (3) **Subscriber organization - subscriber qualifications -**
19 **transferability of subscriptions - rules.** (a) The community solar garden
20 OR COMMUNITY HYDROELECTRIC ENERGY FACILITY may be owned by a
21 subscriber organization, whose sole purpose ~~shall be~~ IS TO beneficially
22 ~~owning~~ OWN and ~~operating~~ OPERATE a community solar garden OR
23 COMMUNITY HYDROELECTRIC ENERGY FACILITY. The subscriber
24 organization may be any for-profit or nonprofit entity permitted by
25 Colorado law. The community solar garden OR COMMUNITY
26 HYDROELECTRIC ENERGY FACILITY may also be built, owned, and operated
27 by a third party under contract with the subscriber organization.

1 (b) On or before October 1, 2010, the commission shall
2 commence a rule-making proceeding to adopt rules as necessary to
3 implement this section, including ~~but not limited to~~ rules to facilitate the
4 financing of subscriber-owned community solar gardens. ~~Such~~ ON OR
5 BEFORE OCTOBER 1, 2014, THE COMMISSION SHALL PROMULGATE RULES
6 AS NECESSARY TO IMPLEMENT THIS SECTION WITH RESPECT TO
7 COMMUNITY HYDROELECTRIC ENERGY FACILITIES, INCLUDING RULES TO
8 FACILITATE THE FINANCING OF SUBSCRIBER-OWNED COMMUNITY
9 HYDROELECTRIC ENERGY FACILITIES. THE rules ~~shall~~ MUST include:

- 10 (I) Minimum capitalization;
- 11 (II) The share of a community solar garden's OR COMMUNITY
12 HYDROELECTRIC ENERGY FACILITY'S eligible ~~solar~~ electric generation
13 facilities that a subscriber organization may at any time own in its own
14 name; and
- 15 (III) Authorizing subscriber organizations to enter into leases,
16 sale-and-leaseback transactions, operating agreements, and other
17 ownership arrangements with third parties.

18 (c) If a subscriber ceases to be a customer at the premises on
19 which the subscription is based but, within a reasonable period as
20 determined by the commission, becomes a customer at another premises
21 in the service territory of the qualifying retail utility and within the
22 geographic area served by the community solar garden OR COMMUNITY
23 HYDROELECTRIC ENERGY FACILITY, the subscription ~~shall continue~~
24 CONTINUES in effect but the bill credit and other features of the
25 subscription ~~shall~~ MUST be adjusted as necessary to reflect any differences
26 between the new and previous premises' customer classification and
27 average annual consumption of electricity.

1 **(4) Community solar gardens and community hydroelectric**
2 **energy facilities not subject to regulation.** Neither the owners of nor the
3 subscribers to a community solar garden ~~shall be~~ OR COMMUNITY
4 HYDROELECTRIC ENERGY FACILITY ARE considered public utilities subject
5 to regulation by the commission solely as a result of their interest in the
6 community solar garden OR COMMUNITY HYDROELECTRIC ENERGY
7 FACILITY. Prices paid for subscriptions in community solar gardens ~~shall~~
8 OR COMMUNITY HYDROELECTRIC ENERGY FACILITIES ARE not ~~be~~ subject
9 to regulation by the commission.

10 **(5) Purchases of the output from community solar gardens or**
11 **hydroelectric energy facilities.** (a) (I) Each qualifying retail utility shall
12 set forth in its plan for acquisition of renewable resources a plan to
13 purchase the electricity and renewable energy credits generated from one
14 or more community solar gardens OR COMMUNITY HYDROELECTRIC
15 ENERGY FACILITIES over the period covered by the plan.

16 (II) ~~For the first three compliance years commencing with the~~
17 ~~2011 compliance year, each qualifying retail utility shall issue one or~~
18 ~~more standard offers to purchase the output from community solar~~
19 ~~gardens of five hundred kilowatts or less at prices that are comparable to~~
20 ~~the prices offered by the qualifying retail utility under standard offers~~
21 ~~issued for on-site solar generation. During these three compliance years,~~
22 ~~the qualifying retail utility shall acquire, through these standard offers,~~
23 ~~one-half of the solar garden generation it plans to acquire, to the extent~~
24 ~~the qualifying retail utility receives responses to its standard offers.~~
25 ~~Notwithstanding any provision of this subparagraph (II) to the contrary,~~
26 ~~renewable energy credits generated from solar gardens shall not be used~~
27 ~~to achieve more than twenty percent of the retail distributed generation~~

1 standard in years 2011 through 2013.

2 ~~(III) For the first three compliance years commencing with the~~
3 ~~2011 compliance year, a qualifying retail utility shall not be obligated to~~
4 ~~purchase the output from more than six megawatts of newly installed~~
5 ~~community solar garden generation.~~

6 (IV) For each qualifying retail utility's compliance years
7 commencing in 2014 and thereafter, the commission shall determine the
8 minimum and maximum purchases of electrical output from newly
9 installed community solar gardens OR NEWLY CONSTRUCTED COMMUNITY
10 HYDROELECTRIC ENERGY FACILITIES of different output capacity that FOR
11 the qualifying retail utility shall plan to acquire. ~~without regard to the~~
12 ~~six-megawatt ceiling of the first three compliance years.~~ In addition, as
13 necessary, the commission shall formulate and implement policies
14 consistent with this section that simultaneously encourage:

15 (A) The ownership by customers of subscriptions in community
16 solar gardens OR COMMUNITY HYDROELECTRIC ENERGY FACILITIES and of
17 other forms of distributed generation, to the extent the commission finds
18 there to be customer demand for such ownership;

19 (B) Ownership in community solar gardens OR COMMUNITY
20 HYDROELECTRIC ENERGY FACILITIES by residential retail customers and
21 agricultural producers, including low-income customers, to the extent the
22 commission finds there to be demand for such ownership;

23 (C) The development of community solar gardens AND
24 COMMUNITY HYDROELECTRIC ENERGY FACILITIES with attributes that the
25 commission finds result in lower overall total costs for the qualifying
26 retail utility's customers;

27 (D) Successful financing and operation of community solar

1 gardens AND COMMUNITY HYDROELECTRIC ENERGY FACILITIES owned by
2 subscriber organizations; and

3 (E) The achievement of the goals and objectives of section
4 40-2-124.

5 (b) (I) The output from a community solar garden OR COMMUNITY
6 HYDROELECTRIC ENERGY FACILITY shall be sold only to the qualifying
7 retail utility serving the geographic area where the community solar
8 garden AND COMMUNITY HYDROELECTRIC ENERGY FACILITY is located.

9 Once a community solar garden OR COMMUNITY HYDROELECTRIC ENERGY
10 FACILITY is part of a qualifying retail utility's plan for acquisition of
11 renewable resources, as approved by the commission, the qualifying retail
12 utility shall purchase all of the electricity and renewable energy credits
13 generated by the community solar garden OR COMMUNITY
14 HYDROELECTRIC ENERGY FACILITY. The amount of electricity and
15 renewable energy credits generated by each community solar garden ~~shall~~
16 OR COMMUNITY HYDROELECTRIC ENERGY FACILITY MUST be determined
17 by a production meter installed by the qualifying retail utility or
18 third-party system owner and paid for by the owner of the community
19 solar garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY.

20 (II) The purchase of the output of a community solar garden OR
21 COMMUNITY HYDROELECTRIC ENERGY FACILITY by a qualifying retail
22 utility ~~shall take~~ MUST BE IN the form of a net metering credit against the
23 qualifying retail utility's electric bill to each community solar garden
24 subscriber OR COMMUNITY HYDROELECTRIC ENERGY FACILITY
25 SUBSCRIBER at the premises set forth in the subscriber's subscription. The
26 net metering credit ~~shall be~~ IS calculated by multiplying the subscriber's
27 share of the electricity production from the community solar garden OR

1 COMMUNITY HYDROELECTRIC ENERGY FACILITY by the qualifying retail
2 utility's total aggregate retail rate as charged to the subscriber, minus a
3 reasonable charge as determined by the commission to cover the utility's
4 costs of delivering to the subscriber's premises the electricity generated
5 by the community solar garden OR COMMUNITY HYDROELECTRIC ENERGY
6 FACILITY, integrating the solar OR HYDROELECTRIC ENERGY generation
7 with the utility's system, and administering the community solar garden's
8 OR COMMUNITY HYDROELECTRIC ENERGY FACILITY'S contracts and net
9 metering credits. The commission shall ensure that this charge does not
10 reflect costs that are already recovered by the utility from the subscriber
11 through other charges. If, and to the extent that, a subscriber's net
12 metering credit exceeds the subscriber's electric bill in any billing period,
13 the net metering credit ~~shall~~ MUST be carried forward and applied against
14 future bills. The qualifying retail utility and the owner of the community
15 solar garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY shall
16 agree on whether the purchase of the renewable energy credits from
17 subscribers will be accomplished through a credit on each subscriber's
18 electricity bill or by a payment to the owner of the community solar
19 garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY.

20 (c) The owner of the community solar garden OR COMMUNITY
21 HYDROELECTRIC ENERGY FACILITY shall provide real-time production data
22 to the qualifying retail utility to facilitate incorporation of the community
23 solar garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY into the
24 utility's operation of its electric system and to facilitate the provision of
25 net metering credits.

26 (d) The owner of the community solar garden ~~shall be~~ OR
27 COMMUNITY HYDROELECTRIC ENERGY FACILITY IS responsible for

1 providing to the qualifying retail utility, on a monthly basis and within
2 reasonable periods set by the qualifying retail utility, the percentage
3 shares that should be used to determine the net metering credit to each
4 subscriber. If the electricity output of the community solar garden OR
5 COMMUNITY HYDROELECTRIC ENERGY FACILITY is not fully subscribed,
6 the qualifying retail utility shall purchase the unsubscribed renewable
7 energy and the renewable energy credits at a rate equal to the qualifying
8 retail utility's average hourly incremental cost of electricity supply over
9 the immediately preceding calendar year.

10 (e) Each qualifying retail utility shall set forth in its plan for
11 acquisition of renewable resources a proposal for including low-income
12 customers as subscribers to a community solar garden OR COMMUNITY
13 HYDROELECTRIC ENERGY FACILITY. The utility may give preference to
14 community solar gardens OR COMMUNITY HYDROELECTRIC ENERGY
15 FACILITIES that have low-income subscribers.

16 (f) Qualifying retail utilities ~~shall be~~ ARE eligible for the
17 incentives and subject to the ownership limitations set forth in section
18 40-2-124 (1) (f) for utility investments in community solar gardens OR
19 COMMUNITY HYDROELECTRIC ENERGY FACILITIES and may recover
20 through rates a margin, in an amount determined by the commission, on
21 all energy and renewable energy credits purchased from community solar
22 gardens ~~Such~~ OR COMMUNITY HYDROELECTRIC ENERGY FACILITIES. THE
23 incentive payments ~~shall be~~ ARE excluded from the cost analysis required
24 by section 40-2-124 (1) (g).

25 (6) Nothing in this section ~~shall be construed to waive~~ WAIVES or
26 ~~supersede~~ SUPERSEDES the retail rate impact limitations in section
27 40-2-124 (1) (g). Utility expenditures for unsubscribed energy and

1 renewable energy credits generated by community solar gardens ~~shall~~ OR
2 COMMUNITY HYDROELECTRIC ENERGY FACILITIES MUST be included in the
3 calculations of retail rate impact required by that section.

4 (7) ~~Applicability to cooperative electric associations and~~
5 ~~municipally owned utilities.~~ This section shall not apply to cooperative
6 electric associations or to municipally owned utilities.

7 SECTION 4. In Colorado Revised Statutes, 30-20-602, **amend**
8 (4.3) (b) as follows:

9 **30-20-602. Definitions.** As used in this part 6, unless the context
10 otherwise requires:

11 (4.3) "Qualified community location" means:

12 (b) If the affected local electric utility is an investor-owned utility,
13 a community solar garden OR COMMUNITY HYDROELECTRIC ENERGY
14 FACILITY, as ~~that term is~~ THOSE TERMS ARE defined in section 40-2-127
15 (2), C.R.S. ~~If House Bill 10-1342 does not take effect, there shall be no~~
16 ~~qualified community locations in the service territories of investor-owned~~
17 ~~utilities.~~

18 SECTION 5. In Colorado Revised Statutes, 31-25-501, **amend**
19 (3.5) (b) as follows:

20 **31-25-501. Definitions.** As used in this part 5, unless the context
21 otherwise requires:

22 (3.5) "Qualified community location" means:

23 (b) If the affected local electric utility is an investor-owned utility,
24 a community solar garden OR COMMUNITY HYDROELECTRIC ENERGY
25 FACILITY, as ~~that term is~~ THOSE TERMS ARE defined in section 40-2-127
26 (2), C.R.S. ~~If House Bill 10-1342 does not take effect, there shall be no~~
27 ~~qualified community locations in the service territories of investor-owned~~

1 ~~utilities.~~

2 **SECTION 6. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2014 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.