

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

BILL 1

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LLS NO. 14-0249.01 Jennifer Berman x3286

INTERIM COMMITTEE BILL

Water Resources Review Committee

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** of the bill 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** of the bill 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, FOR A
4 HYDROELECTRIC ENERGY FACILITY'S USE OF A MOTOR AS A GENERATOR.

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

7 **24-33-117. State agency coordination of review of federal**
8 **license and license exemption applications for hydroelectric energy**
9 **projects - legislative declaration - definitions - rules. (1) Legislative**

10 **declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
11 THAT:

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

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

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

25 (d) (I) TO CONSTRUCT, OPERATE, OR MAINTAIN A NONFEDERAL
26 HYDROELECTRIC ENERGY FACILITY, A PERSON MUST APPLY TO FERC FOR
27 A LICENSE OR A LICENSE EXEMPTION IF THE FACILITY IS LOCATED ON

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

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

13 (III) TO PROMOTE THE CONSTRUCTION AND OPERATION OF NEW
14 HYDROELECTRIC ENERGY FACILITIES, THE UNITED STATES CONGRESS
15 PASSED THE "HYDROPOWER REGULATORY EFFICIENCY ACT OF 2013",
16 FEDERAL PUBLIC LAW 113-23, AS AMENDED, WHICH EXEMPTS CERTAIN
17 SMALL HYDROELECTRIC ENERGY FACILITIES FROM THE LICENSING
18 REQUIREMENTS AND STREAMLINES THE APPROVAL PROCESS FOR
19 HYDROELECTRIC ENERGY FACILITIES GENERALLY; AND

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

27 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

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

4 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
5 RESOURCES.

6 (c) "FERC" MEANS THE FEDERAL ENERGY REGULATORY
7 COMMISSION.

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

15 (b) THE DEPARTMENT SHALL COORDINATE STATE AGENCY REVIEW
16 OF THE APPLICATION BY PROVIDING THE FOLLOWING TO ALL RELEVANT
17 STATE AGENCIES WITH POTENTIAL INTEREST IN THE APPLICANT'S
18 HYDROELECTRIC ENERGY PROJECT:

19 (I) NOTICE VIA EMAIL OF THE APPLICATION;

20 (II) ELECTRONIC COPIES OF ANY DOCUMENTATION RECEIVED FROM
21 THE APPLICANT;

22 (III) A GENERAL DESCRIPTION OF THE FERC REVIEW PROCESS; AND

23 (IV) THE DEADLINE BY WHICH THE OTHER STATE AGENCIES MUST
24 SUBMIT ANY COMMENTS ABOUT THE APPLICATION TO THE DEPARTMENT.

25 THE DEPARTMENT MUST SET A DEADLINE THAT IS SUFFICIENTLY IN
26 ADVANCE OF THE EXPIRATION OF THE FORTY-FIVE DAY COMMENT PERIOD
27 PROVIDED FOR BY FERC TO ALLOW THE DEPARTMENT TO COMPILE OTHER

1 AGENCIES' COMMENTS AND ITS OWN COMMENTS FOR TIMELY SUBMISSION
2 TO FERC.

3 (c) UPON THE EXPIRATION OF THE DEADLINE SET BY THE
4 DEPARTMENT FOR OTHER AGENCIES TO REVIEW AN APPLICATION, THE
5 DEPARTMENT SHALL COMPILE ANY COMMENTS FROM OTHER AGENCIES
6 AND ITS OWN COMMENTS AND SUBMIT THE COMMENTS TO FERC BEFORE
7 THE EXPIRATION OF THE COMMENT PERIOD ESTABLISHED BY FERC.
8 THEREAFTER, THE DEPARTMENT SHALL SERVE AS A LIAISON BETWEEN
9 FERC AND THE OTHER STATE AGENCIES CONCERNING ANY DISCUSSION OF
10 THE COMMENTS SUBMITTED.

11 (d) THE DEPARTMENT SHALL PROVIDE INFORMATION ON ITS WEB
12 SITE ABOUT THE STREAMLINED REVIEW PROCESS SET FORTH IN THIS
13 SECTION.

14 (e) THE DEPARTMENT MAY PROMULGATE NECESSARY AND
15 REASONABLE RULES TO IMPLEMENT THIS SECTION, INCLUDING
16 RULE-MAKING CONCERNING THE PROCESS AND DEADLINES FOR
17 DISSEMINATING INFORMATION TO OTHER STATE AGENCIES AND
18 COLLECTING OTHER STATE AGENCIES' COMMENTS.

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

21 **40-2-127. Community energy funds - community solar**
22 **gardens - community hydroelectric energy facilities - definitions -**
23 **rules - legislative declaration. (1) Legislative declaration.** The general
24 assembly hereby finds and declares that:

25 (a) Local communities can benefit from the further development
26 of renewable energy, energy efficiency, conservation, and environmental
27 improvement projects, and the general assembly hereby encourages

1 electric utilities to establish community energy funds for the development
2 of such projects;

3 (b) It is in the public interest that broader participation in solar
4 electric AND HYDROELECTRIC ENERGY generation by Colorado residents
5 and commercial entities be encouraged by the development and
6 deployment of distributed solar electric generating facilities, known as
7 community solar gardens, AND DISTRIBUTED HYDROELECTRIC ENERGY
8 FACILITIES, KNOWN AS COMMUNITY HYDROELECTRIC ENERGY FACILITIES,
9 in order to:

10 (I) Provide Colorado residents and commercial entities with the
11 opportunity to participate in solar generation, in addition to the
12 opportunities available for rooftop solar generation on homes and
13 businesses, AND THE OPPORTUNITY TO PARTICIPATE IN HYDROELECTRIC
14 ENERGY GENERATION;

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

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

20 (IV) Leverage Colorado's solar AND HYDROELECTRIC ENERGY
21 generating capacity through economies of scale.

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

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

25 (b) In addition:

26 (I) (A) "Community solar garden" means a solar electric
27 generation facility with a nameplate rating of two megawatts or less that

1 is located in or near a community served by a qualifying retail utility
2 where the beneficial use of the electricity generated by the facility
3 belongs to the subscribers to the community solar garden. ~~There shall be~~
4 THE COMMUNITY SOLAR GARDEN MUST HAVE at least ten subscribers. The
5 owner of the community solar garden may be the qualifying retail utility
6 or any other for-profit or nonprofit entity or organization, including a
7 subscriber organization organized under this section, that contracts to sell
8 the output from the community solar garden to the qualifying retail utility.
9 A community solar garden ~~shall be deemed to be~~ IS "located on the site
10 of customer facilities" WITHIN THE MEANING OF SECTION 40-2-124.

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

14 (I.5)(A) "COMMUNITY HYDROELECTRIC ENERGY FACILITY" MEANS
15 A HYDROELECTRIC ENERGY GENERATION FACILITY WITH A CAPACITY OF
16 TEN MEGAWATTS OR LESS THAT IS LOCATED IN OR NEAR A COMMUNITY
17 SERVED BY A QUALIFYING RETAIL UTILITY WHERE THE BENEFICIAL USE OF
18 THE ELECTRICITY GENERATED BY THE FACILITY BELONGS TO THE
19 SUBSCRIBERS TO THE COMMUNITY HYDROELECTRIC ENERGY FACILITY. THE
20 COMMUNITY HYDROELECTRIC ENERGY FACILITY MUST HAVE AT LEAST TEN
21 SUBSCRIBERS. THE OWNER OF THE COMMUNITY HYDROELECTRIC ENERGY
22 FACILITY MAY BE A QUALIFYING RETAIL UTILITY OR ANY OTHER
23 FOR-PROFIT OR NONPROFIT ENTITY OR ORGANIZATION, INCLUDING A
24 SUBSCRIBER ORGANIZATION ORGANIZED UNDER THIS SECTION, THAT
25 CONTRACTS TO SELL THE OUTPUT FROM THE COMMUNITY HYDROELECTRIC
26 ENERGY FACILITY TO THE QUALIFYING RETAIL UTILITY. A COMMUNITY
27 HYDROELECTRIC ENERGY FACILITY IS "LOCATED ON THE SITE OF

1 CUSTOMER FACILITIES" WITHIN THE MEANING OF SECTION 40-2-124.

2 (B) A COMMUNITY HYDROELECTRIC ENERGY FACILITY
3 CONSTITUTES "RETAIL DISTRIBUTED GENERATION" WITHIN THE MEANING
4 OF SECTION 40-2-124, AS AMENDED BY HOUSE BILL 10-1001, ENACTED IN
5 2010.

6 (II) "Subscriber" means a retail customer of a qualifying retail
7 utility who owns a subscription and who has identified one or more
8 physical locations to which the subscription ~~shall be~~ IS attributed. Such
9 physical locations ~~shall~~ MUST be within either the same municipality or
10 the same county as the community solar garden OR COMMUNITY
11 HYDROELECTRIC ENERGY FACILITY; except that, if the subscriber lives in
12 a county with a population of less than twenty thousand, according to the
13 most recent available census figures, such physical locations may be in
14 another county, also with a population of less than twenty thousand,
15 within the service territory of the same qualifying retail utility, and ~~also~~
16 adjacent to that of the community solar garden OR COMMUNITY
17 HYDROELECTRIC ENERGY FACILITY. The subscriber may change from time
18 to time the premises to which the ELECTRICITY GENERATION FROM THE
19 community solar garden ~~electricity generation shall be~~ OR COMMUNITY
20 HYDROELECTRIC ENERGY IS attributed, so long as the premises are within
21 the geographical limits allowed for a subscriber.

22 (III) "Subscription" means a proportional interest in solar electric
23 generation facilities installed at a community solar garden OR IN A
24 COMMUNITY HYDROELECTRIC ENERGY FACILITY, together with the
25 renewable energy credits associated with or attributable to such facilities
26 under section 40-2-124. Each subscription ~~shall~~ MUST be sized to
27 represent at least one kilowatt of the community solar garden's OR

1 COMMUNITY HYDROELECTRIC ENERGY FACILITY'S generating capacity and
2 to supply no more than one hundred twenty percent of the average annual
3 consumption of electricity by each subscriber at the premises to which the
4 subscription is attributed, with a deduction for the amount of any existing
5 solar facilities at such premises. Subscriptions in a community solar
6 garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY may be
7 transferred or assigned to a subscriber organization or to any person or
8 entity who qualifies to be a subscriber under this section.

9 (3) **Subscriber organization - subscriber qualifications -**
10 **transferability of subscriptions - rules.** (a) The community solar garden
11 OR COMMUNITY HYDROELECTRIC ENERGY FACILITY may be owned by a
12 subscriber organization, whose sole purpose ~~shall be~~ IS TO beneficially
13 ~~owning~~ OWN and ~~operating~~ OPERATE a community solar garden OR
14 COMMUNITY HYDROELECTRIC ENERGY FACILITY. The subscriber
15 organization may be any for-profit or nonprofit entity permitted by
16 Colorado law. The community solar garden OR COMMUNITY
17 HYDROELECTRIC ENERGY FACILITY may also be built, owned, and operated
18 by a third party under contract with the subscriber organization.

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

1 (I) Minimum capitalization;
2 (II) The share of a community solar garden's OR COMMUNITY
3 HYDROELECTRIC ENERGY FACILITY'S eligible ~~solar~~ electric generation
4 facilities that a subscriber organization may at any time own in its own
5 name; and

6 (III) Authorizing subscriber organizations to enter into leases,
7 sale-and-leaseback transactions, operating agreements, and other
8 ownership arrangements with third parties.

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

19 (4) **Community solar gardens and community hydroelectric**
20 **energy facilities not subject to regulation.** Neither the owners of nor the
21 subscribers to a community solar garden ~~shall be~~ OR COMMUNITY
22 HYDROELECTRIC ENERGY FACILITY ARE considered public utilities subject
23 to regulation by the commission solely as a result of their interest in the
24 community solar garden OR COMMUNITY HYDROELECTRIC ENERGY
25 FACILITY. Prices paid for subscriptions in community solar gardens ~~shall~~
26 OR COMMUNITY HYDROELECTRIC ENERGY FACILITIES ARE not ~~be~~ subject
27 to regulation by the commission.

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

7 ~~(II) For the first three compliance years commencing with the~~
8 ~~2011 compliance year, each qualifying retail utility shall issue one or~~
9 ~~more standard offers to purchase the output from community solar~~
10 ~~gardens of five hundred kilowatts or less at prices that are comparable to~~
11 ~~the prices offered by the qualifying retail utility under standard offers~~
12 ~~issued for on-site solar generation. During these three compliance years,~~
13 ~~the qualifying retail utility shall acquire, through these standard offers,~~
14 ~~one-half of the solar garden generation it plans to acquire, to the extent~~
15 ~~the qualifying retail utility receives responses to its standard offers.~~
16 ~~Notwithstanding any provision of this subparagraph (H) to the contrary,~~
17 ~~renewable energy credits generated from solar gardens shall not be used~~
18 ~~to achieve more than twenty percent of the retail distributed generation~~
19 ~~standard in years 2011 through 2013.~~

20 ~~(HH) For the first three compliance years commencing with the~~
21 ~~2011 compliance year, a qualifying retail utility shall not be obligated to~~
22 ~~purchase the output from more than six megawatts of newly installed~~
23 ~~community solar garden generation.~~

24 ~~(IV) For each qualifying retail utility's compliance years~~
25 ~~commencing in 2014 and thereafter, the commission shall determine the~~
26 ~~minimum and maximum purchases of electrical output from newly~~
27 ~~installed community solar gardens OR NEWLY CONSTRUCTED COMMUNITY~~

1 HYDROELECTRIC ENERGY FACILITIES of different output capacity ~~that~~ FOR
2 the qualifying retail utility ~~shall plan~~ to acquire. ~~without regard to the~~
3 ~~six-megawatt ceiling of the first three compliance years.~~ In addition, as
4 necessary, the commission shall formulate and implement policies
5 consistent with this section that simultaneously encourage:

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

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

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

18 (D) Successful financing and operation of community solar
19 gardens AND COMMUNITY HYDROELECTRIC ENERGY FACILITIES owned by
20 subscriber organizations; and

21 (E) The achievement of the goals and objectives of section
22 40-2-124.

23 (b) (I) The output from a community solar garden ~~shall~~ OR
24 COMMUNITY HYDROELECTRIC ENERGY FACILITY MAY be sold only to the
25 qualifying retail utility serving the geographic area where the community
26 solar garden AND COMMUNITY HYDROELECTRIC ENERGY FACILITY is
27 located. Once a community solar garden OR COMMUNITY HYDROELECTRIC

1 ENERGY FACILITY is part of a qualifying retail utility's plan for acquisition
2 of renewable resources, as approved by the commission, the qualifying
3 retail utility shall purchase all of the electricity and renewable energy
4 credits generated by the community solar garden OR COMMUNITY
5 HYDROELECTRIC ENERGY FACILITY. The amount of electricity and
6 renewable energy credits generated by each community solar garden ~~shall~~
7 OR COMMUNITY HYDROELECTRIC ENERGY FACILITY MUST be determined
8 by a production meter installed by the qualifying retail utility or
9 third-party system owner and paid for by the owner of the community
10 solar garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY.

11 (II) The purchase of the output of a community solar garden OR
12 COMMUNITY HYDROELECTRIC ENERGY FACILITY by a qualifying retail
13 utility ~~shall take~~ MUST BE IN the form of a net metering credit against the
14 qualifying retail utility's electric bill to each community solar garden
15 subscriber OR COMMUNITY HYDROELECTRIC ENERGY FACILITY
16 SUBSCRIBER at the premises set forth in the subscriber's subscription. The
17 net metering credit ~~shall be~~ IS calculated by multiplying the subscriber's
18 share of the electricity production from the community solar garden OR
19 COMMUNITY HYDROELECTRIC ENERGY FACILITY by the qualifying retail
20 utility's total aggregate retail rate as charged to the subscriber, minus a
21 reasonable charge as determined by the commission to cover the utility's
22 costs of delivering to the subscriber's premises the electricity generated
23 by the community solar garden OR COMMUNITY HYDROELECTRIC ENERGY
24 FACILITY, integrating the solar OR HYDROELECTRIC ENERGY generation
25 with the utility's system, and administering the community solar garden's
26 OR COMMUNITY HYDROELECTRIC ENERGY FACILITY'S contracts and net
27 metering credits. The commission shall ensure that this charge does not

1 reflect costs that are already recovered by the utility from the subscriber
2 through other charges. If, and to the extent that, a subscriber's net
3 metering credit exceeds the subscriber's electric bill in any billing period,
4 the net metering credit ~~shall~~ MUST be carried forward and applied against
5 future bills. The qualifying retail utility and the owner of the community
6 solar garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY shall
7 agree on whether the purchase of the renewable energy credits from
8 subscribers will be accomplished through a credit on each subscriber's
9 electricity bill or by a payment to the owner of the community solar
10 garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY.

11 (c) The owner of the community solar garden OR COMMUNITY
12 HYDROELECTRIC ENERGY FACILITY shall provide real-time production data
13 to the qualifying retail utility to facilitate incorporation of the community
14 solar garden OR COMMUNITY HYDROELECTRIC ENERGY FACILITY into the
15 utility's operation of its electric system and to facilitate the provision of
16 net metering credits.

17 (d) The owner of the community solar garden ~~shall be~~ OR
18 COMMUNITY HYDROELECTRIC ENERGY FACILITY IS responsible for
19 providing to the qualifying retail utility, on a monthly basis and within
20 reasonable periods set by the qualifying retail utility, the percentage
21 shares that should be used to determine the net metering credit to each
22 subscriber. If the electricity output of the community solar garden OR
23 COMMUNITY HYDROELECTRIC ENERGY FACILITY is not fully subscribed,
24 the qualifying retail utility shall purchase the unsubscribed renewable
25 energy and the renewable energy credits at a rate equal to the qualifying
26 retail utility's average hourly incremental cost of electricity supply over
27 the immediately preceding calendar year.

1 (e) Each qualifying retail utility shall set forth in its plan for
2 acquisition of renewable resources a proposal for including low-income
3 customers as subscribers to a community solar garden OR COMMUNITY
4 HYDROELECTRIC ENERGY FACILITY. The utility may give preference to
5 community solar gardens OR COMMUNITY HYDROELECTRIC ENERGY
6 FACILITIES that have low-income subscribers.

7 (f) Qualifying retail utilities ~~shall be~~ ARE eligible for the
8 incentives and subject to the ownership limitations set forth in section
9 40-2-124 (1) (f) for utility investments in community solar gardens OR
10 COMMUNITY HYDROELECTRIC ENERGY FACILITIES and may recover
11 through rates a margin, in an amount determined by the commission, on
12 all energy and renewable energy credits purchased from community solar
13 gardens ~~Such~~ OR COMMUNITY HYDROELECTRIC ENERGY FACILITIES. THE
14 incentive payments ~~shall be~~ ARE excluded from the cost analysis required
15 by section 40-2-124 (1) (g).

16 (6) Nothing in this section ~~shall be construed to waive~~ WAIVES or
17 ~~supersede~~ SUPERSEDES the retail rate impact limitations in section
18 40-2-124 (1) (g). Utility expenditures for unsubscribed energy and
19 renewable energy credits generated by community solar gardens ~~shall~~ OR
20 COMMUNITY HYDROELECTRIC ENERGY FACILITIES MUST be included in the
21 calculations of retail rate impact required by that section.

22 (7) **Applicability to cooperative electric associations and**
23 **municipally owned utilities.** This section ~~shall~~ DOES not apply to
24 cooperative electric associations or to municipally owned utilities.

25 **SECTION 4.** In Colorado Revised Statutes, 30-20-602, **amend**
26 (4.3) (b) as follows:

27 **30-20-602. Definitions.** As used in this part 6, unless the context

1 otherwise requires:

2 (4.3) "Qualified community location" means:

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

9 **SECTION 5.** In Colorado Revised Statutes, 31-25-501, **amend**
10 (3.5) (b) as follows:

11 **31-25-501. Definitions.** As used in this part 5, unless the context
12 otherwise requires:

13 (3.5) "Qualified community location" means:

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

20 **SECTION 6. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

- 1 November 2014 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.