BILL TOPIC: "Utilities Energy Upgrade Programs"

**[Context: this is the draft bill with recommended edits incorporated, numbering/spacing may be off, but should be fixed in final draft. The draft is tied up in legislative drafting and so we are going ahead and sharing this version. The actual version may be slightly different, but should be very similar. ]**

A BILL FOR AN ACT

CONCERNING REQUIRING CERTAIN UTILITIES TO ALLOW CUSTOMERS TO

PARTICIPATE IN ENERGY UPGRADE PROGRAMS THAT REDUCE ENERGY COSTS AT CUSTOMER LOCATIONS .

Bill Summary

[Bill summary to be drafted following revisions to draft.]

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.

SECTION 1. In Colorado Revised Statutes, add part 3 to article 2 of title 40 as follows:

PART 3

ENERGY EFFICIENCY UPGRADE PROGRAMS

40-2-301. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) COLORADO HOMES AND BUSINESSES CAN CONTRIBUTE TO THE CREATION OF A CLEAN ENERGY ECONOMY, CONSERVATION OF NATURAL RESOURCES, AND RELIABILITY OF THE ELECTRICITY GRID THROUGH THE INSTALLATION OF COST-EFFECTIVE RENEWABLE ENERGY GENERATION, ENERGY EFFICIENCY AND DEMAND RESPONSE EQUIPMENT, AND ENERGY STORAGE SYSTEMS; AND

(b) MANY COLORADO RESIDENTS AND BUSINESSES THAT WOULD BENEFIT FROM COST-EFFECTIVE RENEWABLE ENERGY GENERATION, ENERGY EFFICIENCY AND DEMAND RESPONSE EQUIPMENT, AND ENERGY STORAGE SYSTEMS ARE UNABLE TO PURCHASE SUCH SYSTEMS DUE TO CAPITAL OR CREDIT BARRIERS.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT COLORADO SHOULD PURSUE OPTIONS TO ENABLE MORE COLORADANS TO ACCESS THE HEALTH, ENVIRONMENTAL, AND FINANCIAL BENEFITS OF NEW CLEAN ENERGY TECHNOLOGY.

40-2-302. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101.

(2) "ELIGIBLE CUSTOMER" MEANS A CUSTOMER OF A UTILITY, WHICH CUSTOMER:

(a) OWNS THE PROPERTY AT WHICH THE CUSTOMER RECEIVES UTILITY SERVICE; OR

(b) RENTS THE PROPERTY AT WHICH THE CUSTOMER RECEIVES UTILITY SERVICE, PAYS ALL OR SOME OF THE REGULAR BILL FOR THE UTILITY SERVICE, AND HAS THE WRITTEN PERMISSION OF THE PROPERTY OWNER TO PARTICIPATE IN A PROGRAM.

(3) "ENERGY PROJECT" MEANS AN UPGRADE OF THE EFFICIENCY OF ENERGY USAGE AT A PARTICIPANT'S LOCATION, INCLUDING THE ADDITIONOF RENEWABLE ENERGY GENERATION SYSTEMS, INCLUDING SOLAR PROJECTS, ENERGY EFFICIENCY IMPROVEMENTS, ENERGY STORAGE SYSTEMS, DEMAND RESPONSE EQUIPMENT, AND ANY COMBINATION OF THESE THINGS.

(4) "PARTICIPANT" MEANS AN ELIGIBLE CUSTOMER WHO ELECTS TO PARTICIPATE IN A UTILITY'S PROGRAM. PARTICIPANTS AT A LOCATION WITH AN ENERGY PROJECT ARE RESPONSIBLE FOR THE ACTIONS OF ANY OCCUPANTS AT THEIR LOCATION.

(5) “SUCCESSOR CUSTOMER” MEANS A CUSTOMER OF A UTILITY TAKING OCCUPANCY AT A LOCATION AT WHICH AN ENERGY PROJECT WAS INSTALLED AND WHERE TARIFFED CHARGES ARE STILL IN EFFECT. SUCCESSOR CUSTOMERS AT A LOCATION WITH AN ENERGY PROJECT ARE RESPONSIBLE FOR THE ACTIONS OF ANY OCCUPANTS AT THEIR LOCATION.

(6) "PROGRAM" MEANS AN ENERGY EFFICIENCY UPGRADE PROGRAM OFFERED BY A UTILITY PURSUANT TO SECTION 40-2-303.

(7) "PROGRAM CONTRACTOR" MEANS A CONTRACTOR THAT IS SELECTED BY A PROGRAM OPERATOR TO PERFORM AN ENERGY PROJECT.

(8) "PROGRAM OPERATOR" MEANS A STATE AGENCY, BUSINESS, OR NONPROFIT ORGANIZATION RESPONSIBLE FOR IMPLEMENTING A UTILITY'S PROGRAM.

(9) "TARIFF" AS DEFINED IN COMMISSION RULES 4-CCR-723-1, PART 1004 (hh) MEANS a schedule that is filed with the Commission pursuant to § 40-3-103, C.R.S. showing all rates and classifications collected or enforced, or to be collected or enforced, and/or rules, regulations, terms, and conditions, that in any manner affect or relate to rates, CLASSIFICATIONS, OR SERVICE. For this part 3, a tariff more specifically refers to A SCHEDULE THAT IS ESTABLISHED BY A UTILITY IN ORDER TO RECOVER ITS COSTS INCURRED IN OFFERING ONE OR MORE ENERGY PROJECTS AND THAT IS CALCULATED IN ACCORDANCE WITH SECTION 40-2-303 (3)(c).

(10) "TARIFF CHARGE" MEANS A MONTHLY OR OTHER REGULAR CHARGE THAT IS ASSOCIATED WITH ONE OR MORE ENERGY PROJECTS AND THAT A PARTICIPANT OR A SUCCESSOR CUSTOMER AT A LOCATION PAYS TO A UTILITY PURSUANT TO A TARIFF. TARIFF CHARGES ARE AUTOMATICALLY BINDING ON SUCCESSOR CUSTOMERS IN LOCATIONS WHERE ENERGY PROJECTS HAVE BEEN INSTALLED.

(11) "UTILITY" MEANS A PUBLIC UTILITYAS DEFINED IN SECTION 40-1-103 PROVIDING ELECTRIC SERVICES AS AN INVESTOR-OWNED UTILITY IN COLORADO.

40-2-303. Energy efficiency upgrade programs required - implementation plans - duties of utilities.   
(1) ON AND AFTER THE DATE THAT OCCURS \_\_ DAYS AFTER THE EFFECTIVE DATE OF THIS PART 3, THE COMMISSION SHALL REQUIRE EACH UTILITY IN THE STATE TO HIRE A PROGRAM OPERATOR TO IMPLEMENT A PROGRAM THAT SATISFIES THE REQUIREMENTS DESCRIBED IN THIS PART 3.

(2) ON OR BEFORE [120 DAYS AFTER THE COMMISSION PROMULGATES RULES], EACH UTILITY SHALL SUBMIT AN IMPLEMENTATION PLAN TO THE COMMISSION THAT DESCRIBES THE UTILITY'S PLAN FOR IMPLEMENTING A PROGRAM. IF THE COMMISSION FINDS THAT THE CONTENT OF THE IMPLEMENTATION PLAN DOES NOT COMPLY WITH THIS PART 3 OR WITH ANY RULE PROMULGATED BY THE COMMISSION, THE COMMISSION MAY REQUIRE THE UTILITY TO MODIFY ITS IMPLEMENTATION PLAN.

(3) A PROGRAM OFFERED BY A UTILITY PURSUANT TO THIS PART 3 MUST:

(a) ALLOW THE PROGRAM OPERATOR TO IMPLEMENT ENERGY PROJECTS AT CUSTOMER LOCATIONS AND RECOVER THE COSTS OF SUCH ENERGY PROJECTS BY IMPOSING A TARIFF CHARGE THAT IS PAYABLE DIRECTLY THROUGH EACH CUSTOMER'S UTILITY BILL;

(b) ALLOW ELIGIBLE CUSTOMERS OF THE UTILITY TO REQUEST AND AGREE TO THE INSTALLATION OF AN ENERGY PROJECT;

(c) SET PROGRAM PARTICIPANT’S TARIFF CHARGE BASED ON THE PROGRAM OPERATOR COST CALCULATIONS AS DESCRIBED IN 40-2-307 (3). THE PROGRAM PARTICIPANT’S FIRST-YEAR TARIFF CHARGES CANNOT EXCEED 90 PERCENT OF THE PARTICIPANT’S ESTIMATED FIRST-YEAR COST SAVINGS UNDER UTILITY RATES IN PLACE AT THE TIME OF INSTALLATION. THE TERM OF COST-RECOVERY SHALL BE NO MORE THAN 90 PERCENT OF THE ESTIMATED LIFE SPAN OF THE INSTALLED UPGRADE. THE COMMISSION MAY SET THE PERCENTAGES FOR TARIFF CHARGES AND TERM AT A LOWER NUMBER IF THE COMMISION DETERMINES THAT PERCENTAGE IS MORE BENEFICAL FOR COLORADANS. THE COMMISSION MAY SET DIFFERENT PERCENTAGES FOR DIFFERENT TYPES OF ENERGY UPGRADE TECHNOLOGIES.

(d) ELIGIBLE CUSTOMERS MAY VOLUNTARILY PROVIDE PAYMENT TO A PROGRAM CONTRACTOR TO ENSURE THAT ENERGY PROJECTS WOULD MEET 40-2-303 (3)(c).

(e) ALLOW PROJECTS THAT CONVERT GAS APPLIANCES TO ELECTRIC TO

BE CONSIDERED AS ENERGY PROJECTS UNDER A PROGRAM;

(f) REQUIRE PARTICIPANTS TO AGREE TO ALLOW THE UTILITY TO

RECOVER ITS COSTS FOR INVESTMENTS AT PARTICIPANTS' LOCATIONS BY

COLLECTING A TARIFF CHARGE THROUGH THE PARTICIPANTS’ ELECTRICITY

BILLS.

(4) IN OFFERING A PROGRAM, A UTILITY SHALL APPLY THE TARIFF CHARGE TO A PARTICIPANT'S BILL NO SOONER THAN FORTY-FIVE DAYS AFTER AN ENERGY PROJECT IS INSPECTED AND APPROVED BY A PROGRAM OPERATOR OR A PROGRAM OPERATOR'S DESIGNEE.

(5) IN SELECTING ELIGIBLE CUSTOMERS FOR PARTICIPATION IN A PROGRAM, A UTILITY MAY GIVE HIGHER PRIORITY TO CUSTOMERS WITH FAILED ESSENTIAL EQUIPMENT SUCH AS SPACE AND WATER HEATING EQUIPMENT.

(6) IN OFFERING A PROGRAM, A UTILITY SHALL NOTIFY EACH ELIGIBLE CUSTOMER THAT IS INTERESTED IN PARTICIPATING THAT, IF THE ELIGIBLE CUSTOMER IS INCOME-QUALIFIED, THE ELIGIBLE CUSTOMER MAY BE ELIGIBLE FOR UTILITY BILL DISCOUNTS OR SUBSIDIES AND FREE ENERGY IMPROVEMENTS. THE UTILITY SHALL PROVIDE EACH CUSTOMER CONTACT INFORMATION CONCERNING SUCH RESOURCES AT THE ELIGIBLE CUSTOMER'S REQUEST.

(7) A UTILITY OFFERING A PROGRAM SHALL NOT DIRECTLY OPERATE THE PROGRAM AND IS ENCOURAGED TO HIRE ONE OR MORE EXPERIENCED PROGRAM OPERATORS, IN ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSION.

(8) IN IMPLEMENTING A PROGRAM, A PROGRAM OPERATOR SHALL PRIORITIZE THE

USE OF PROGRAM CONTRACTORS THAT HAVE EMPLOYEES WHO HAVE

RECEIVED TRAINING THROUGH STATE-CREATED JOB TRAINING PROGRAMS.

(9) A UTILITY SHALL NOT REQUIRE AN ELIGIBLE CUSTOMER TO CONTINUE PAYING FOR ANY ENERGY PROJECT THAT FAILS AND IS NOT REPAIRED WITHIN

TWENTY-ONE DAYS AFTER THE UTILITY RECEIVES NOTICE OF THE FAILURE UNLESS THE ENERGY PROJECT HAS BEEN DAMAGED OR FAILED TO BE MAINTAINED BY THE PARTICIPANT OR OCCUPANTS AT THE LOCATION. THE PROGRAM OPERATOR IS RESPONSIBLE FOR VERIFYING ANY FAILURE AND ITS COST. IN THE CASE OF SUCH A FAILURE, THE UTILITY MAY RESUME APPLYING CHARGES AFTER THE ENERGY PROJECT IS REPAIRED AND FUNCTIONING, AND THE UTILITY MAY EXTEND THE TERM OF PAYMENTS TO RECOVER THE UTILITY'S COSTS FOR MISSED PAYMENTS AND REPAIRS, BUT ONLY FOR AS LONG AS THE ENERGY PROJECT CONTINUES TO FUNCTION.

(10) CUSTOMERS WHO DAMAGE OR FAIL TO MAINTAIN AN ENERGY PROJECT WILL BE RESPONSIBLE FOR THE BALANCE OF UTILITY COST RECOVERY.

40-2-304. Capital investment requirements for utilities -recovery of costs of capital - rules.

(1) THE COMMISSION SHALL ESTABLISH PROGRAM GUIDELINES WITH THE ANTICIPATED SCHEDULE OF PROGRAM AVAILIBILITY AS FOLLOWS:

(a) ON AND AFTER \_\_\_, AND UNTIL \_\_\_, [THE FIRST TWO YEARS OF OPERATION] EACH UTILITY SHALL INVEST CAPITAL IN AN AMOUNT EQUAL TO ONE PERCENT OF THE NUMBER OF THE UTILITY'S TOTAL RESIDENTIAL METERS MULTIPLIED BY TEN THOUSAND DOLLARS. THE UTILITY SHALL USE THIS MONEY FOR INVESTMENTS IN ENERGY PROJECTS IMPLEMENTED UNDER THE UTILITY'S PROGRAM.

(b) ON AND AFTER \_\_\_, AND UNTIL \_\_\_, [THE THIRD YEAR OF OPERATION] EACH UTILITY SHALL INVEST CAPITAL IN AN AMOUNT EQUAL TO TWO PERCENT OF THE NUMBER OF THE UTILITY'S TOTAL RESIDENTIAL METERS MULTIPLIED BY TEN THOUSAND DOLLARS. THE UTILITY SHALL USE THIS MONEY FOR INVESTMENTS IN ENERGY PROJECTS IMPLEMENTED UNDER THE UTILITY'S PROGRAM.

(c) ON AND AFTER \_\_\_, [THE FOURTH YEAR OF OPERATION AND

BEYOND], EACH UTILITY SHALL INVEST CAPITAL IN AN AMOUNT THAT

ALLOWS THE UTILITY TO IMPLEMENT ALL ENERGY PROJECTS REQUESTED BY

ANY CUSTOMER OF THE UTILITY.

(2) A UTILITY MAY RECOVER THE COMMISSION’S APPROVED COST OF CAPITAL FROM ITS CUSTOMERS; HOWEVER, PARTICIPANTS MAY ONLY BE CHARGED 3% INTEREST ON THE COST OF THEIR ENERGY PROJECTS.

(3) EACH UTILITY SHALL INFORM ITS CUSTOMERS ABOUT THE AVAILABILITY OF THE UTILITY PROGRAM AND THEIR POTENTIAL ELIGIBILITY TO PARTICIPATE.

(4) THE COMMISSION SHALL PROMULGATE RULES ALLOWING EACH UTILITY TO RECOVER ALL OF THE INCURRED COSTS OF OFFERING A PROGRAM SO LONG AS THE UTILITY MEETS COMMISSION-DETERMINED THRESHOLDS FOR THE NUMBER OF CUSTOMERS SERVED AND THE AMOUNT OF ITS INVESTMENTS IN THOSE CUSTOMERS' LOCATIONS.

(5) IN THE EVENT THAT A PARTICIPANT FAILS TO PAY THE PARTICIPANT'S UTILITY BILLS RELATING TO THE PROGRAM, THE UTILITY MAY RECOVER THE REMAINING BALANCE OF THE UTILITY COSTS FROM SUCCESSOR CUSTOMERS AT THE PARTICIPANT'S LOCATION. A UTILITY SHALL TREAT A COMPLETED ENERGY PROJECT AS AN ESSENTIAL UTILITY SERVICE AND SHALL TREAT NON-PAYMENT FOR A COMPLETED ENERGY PROJECT AS IT DOES ALL OTHER ESSENTIAL UTILITY SERVICES.

40-2-305. Sharing of utility profits from electrification of gas-fired

heating appliances. THE COMMISSION MAY CREATE SPECIFIC RATES AND

INCENTIVES TO PROMOTE ADDITIONAL OR MORE COMPREHENSIVE ENERGY PROJECTS OR REFUNDS TO ALL CUSTOMERS BY REQUIRING UTILITIES TO ALLOCATE A PERCENTAGE OF THE FUNDS THAT THEY REALIZE FROM INCREASED SALES

RESULTING FROM ELECTRIFICATION OF GAS-FIRED HEATING APPLIANCES.

40-2-307. Program operators - duties.

(1) A PROGRAM OPERATOR SHALL IMPLEMENT A UTILITY'S PROGRAM BY CONTACTING POTENTIAL PARTICIPANTS, ASSESSING WHICH ENERGY PROJECTS QUALIFY FOR THE PROGRAM AT A LOCATION, ENSURING THAT ENERGY PROJECTS ARE COMPLETED BY PROGRAM CONTRACTORS, OVERSEEING ENERGY PROJECT INSTALLATIONS, RESOLVING DISPUTES BETWEEN PARTIES, AND ENSURING THAT PROGRAM CONTRACTORS' LICENSES AND CERTIFICATES OF INSURANCE ARE MAINTAINED.

(2) A PROGRAM OPERATOR MAY NEGOTIATE WITH DISTRIBUTORS OR PROGRAM CONTRACTORS TO OBTAIN DISCOUNTS FOR SERVICES FROM PROGRAM CONTRACTORS IN ORDER TO LOWER COSTS FOR THE UTILITY AND PARTICIPANTS;

(3) IN CALCULATING THE COST EFFECTIVENESS OF A PROPOSED ENERGY PROJECT AT AN ELIGIBLE CUSTOMER'S LOCATION, A PROGRAM OPERATOR SHALL USE THE PROCESS ESTABLISHED BY RULES PROMULGATED BY THE COMMISSION PURSUANT TO SECTION 40-2-308 (2)(c). A PROGRAM OPERATOR SHALL DETERMINE A PROPOSED ENERGY PROJECT IS SUFFICIENTLY COST EFFECTIVE ONLY IF THE PROGRAM OPERATOR DETERMINES THAT THE ENERGY PROJECT WILL IMMEDIATELY PRODUCE NET SAVINGS BASED ON RATES IN EFFECT AT THE TIME OF INSTALLATION.

(4) A PROGRAM OPERATOR SHALL CREATE AND ADMINISTER AN AUTHORIZED CONTRACTOR PROGRAM TO PROVIDE AUTHORIZED CONTRACTORS TO THE UTILITY OR UTILITIES THAT OFFER PROGRAMS PURSUANT TO THIS PART3.

(a) THE COMMISSION SHALL ESTABLISH MINIMUM CRITERIA FOR CONTRACTORS WHO WISH TO PARTICIPATE IN THE AUTHORIZED CONTRACTOR PROGRAM, INCLUDING REQUIRING PARTICIPATING CONTRACTORS TO DEMONSTRATE SPECIFIC SKILLS, LICENSURE, OR CERTIFICATION AND POSSESS ADEQUATE INSURANCE OR BONDING COVERAGE.

(b) IN ANY LIST OF PROGRAM CONTRACTORS PRODUCED BY A

PROGRAM OPERATOR, THE PROGRAM OPERATOR SHALL HIGHLIGHT ANY

CONTRACTOR THAT IS INCLUDED IN THE CERTIFIED CONTRACTOR LIST

DESCRIBED IN SECTION 40-3.2-105.6 (3).

(5) TO PROTECT CONSUMERS, THE COMMISSION SHOULD ESTABLISH COMPENSATION FOR A PROGRAM OPERATOR TIED TO ITS COST FOR THE PROVISION OF SERVICES AND NOT TO THE SIZE OF THE INVESTMENTS MADE.

40-2-308. Commission duties - stakeholder hearing - rules.   
(1) NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE

OF THIS PART 3, THE COMMISSION SHALL CONVENE A HEARING AT WHICH

INTERESTED PARTIES MAY DISCUSS ISSUES AND SUBMIT COMMENTS RELATED

TO THE IMPLEMENTATION OF PROGRAMS BY UTILITIES PURSUANT TO THIS

PART 3.

(2) NOT LATER THAN 365 DAYS AFTER THE EFFECTIVE DATE OF THIS PART 3, THE COMMISSION SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF PROGRAMS BY UTILITIES. IN PROMULGATING THE RULES, THE COMMISSION SHALL REVIEW THE INPUT OF STAKEHOLDERS EXPRESSED DURING THE HEARING DESCRIBED IN SUBSECTION (1) OF THIS SECTION. THE RULES, AT A MINIMUM, MUST INCLUDE:

(a) RULES FOR DETERMINING WHICH POTENTIAL ENERGY PROJECTS ARE

ELIGIBLE PROJECTS; EXCEPT THAT ENERGY PROJECTS THAT ARE INTENDED TO DIRECTLY IMPROVE GAS WATER AND SPACE HEATING APPLIANCE EFFICIENCY OR REDUCE GAS HEATING APPLIANCE OPERATING COSTS ARE NOT ELIGIBLE PROJECTS IF CONVERTING TO ELECTRIC HEAT PUMP TECHNOLOGY WILL BE LESS EXPENSIVE FOR THE PARTICIPANT.

(b) RULES ESTABLISHING CONDITIONS UNDER WHICH UTILITIES MAY SECURE CAPITAL TO FUND ENERGY PROJECTS, AS REQUIRED BY SECTION 40-2-304. IN PROMULGATING RULES PURSUANT TO THIS SUBSECTION (2)(b), THE COMMISSION SHALL:

(I) ALLOW UTILITIES TO RAISE CAPITAL INDEPENDENTLY OR WORK WITH THIRD-PARTY LENDERS TO SECURE CAPITAL;

(II) REQUIRE A UTILITY TO IDENTIFY THE LEAST COSTLY SOURCES OF CAPITAL SUITABLE FOR THE DURATION OF COST RECOVERY AS SPECIFIED IN SECTION 40-2-303 (3); AND

(III) ALLOW THE COLORADO CLEAN ENERGY FUND TO PROVIDE THE LOWEST COST CAPITAL FOR A UTILITY'S PROGRAM.

(c) RULES ESTABLISHING A PROCESS FOR PROGRAM OPERATORS TO USE TO CALCULATE THE COST EFFECTIVENESS OF PROPOSED ENERGY PROJECTS AT A CUSTOMER'S LOCATION, AND THE COMMISSION MUST APPROVE EACH PROGRAM OPERATOR’S COST EFFECTIVENESS ANALYSIS PROTOCOLS AND SOFTWARE PRIOR TO THEIR USE IN ONE OR MORE PROGRAM(S);

(d) RULES ESTABLISHING GUIDELINES FOR UTILITIES TO USE COMMUNICATING WITH CUSTOMERS ABOUT THE UTILITIES' PROGRAMS;

(e) RULES REQUIRING EACH UTILITY TO HIRE ONE OR MORE EXPERIENCED PROGRAM OPERATORS TO PERFORM THE DUTIES DESCRIBED IN SECTION 40-2-307. THE PROGRAM OPERATOR SHALL NOT BE PARTIALLY OR WHOLLY OWNED BY THE HIRING UTILITY NOR OWNED BY COMPANIES THAT THE HIRING UTILITY PARTIALLY OR WHOLLY OWNS.

(f) ESTABLISHING RULES AND STANDARDS FOR VERIFICTION, EVALUATION, AND MONITORING OF UTILITY PROGRAMS.

(3) IN PROMULGATING RULES FOR THE UTILITY PROGRAMS, THE COMMISSION SHALL DETERMINE HOW TO BEST SERVE RESIDENTS OF DISPROPORTIONATELY IMPACTED COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II). THE COMMISSION MAY CONSIDER:

(a) TARGETED MARKETING EFFORTS;

(b) ENGAGEMENT AND COMMUNICATION WITH GROUPS AND PROGRAMS THAT SERVE DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(c) REQUIRING EACH UTILITY TO ENSURE THAT A MINIMUM PERCENTAGE OF ITS CUSTOMERS WHO PARTICIPATE IN THE UTILITY'S PROGRAM ARE MEMBERS OF A DISPROPORTIONATELY IMPACTED COMMUNITY.

(4) IN PROMULGATING RULES FOR THE UTILIY PROGRAMS, THE COMMISSION SHALL DETERMINE HOW TO BEST INCLUDE ACCESS TO THE PROGRAM FOR UTILITY CUSTOMERS WHO NEED EMERGENCY UPGRADES; EMERGENCY UPGRADES ARE NEEDED WHEN A CUSTOMER HAS ONE OR MORE EXISTING MAJOR APPLIANCES FAIL THAT NEED TO BE QUICKLY REPLACED.

40-2-309. Equitable energy upgrade and acceleration programs -evaluations. THE COMMISSION SHALL EVALUATE EACH PROGRAM EIGHTEEN MONTHS AFTER A UTILITY OFFERS A PROGRAM.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.