

MAY 5, 2006 – REVISED DRAFT – NATURAL GAS ENERGY EFFICIENCY
BALLOT INITIATIVE – Version 2 (# 131)

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ELECTIONS/LICENSING
SECRETARY OF STATE

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Be it Enacted by the People of the State of Colorado:

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SECTION 1. Legislative declaration of intent:

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8 Natural gas is the primary fuel used to heat homes and workplaces in Colorado and as such is critical to the well-being of the state's citizens and businesses. Natural gas prices have increased dramatically in the past year and are expected to remain high for years to come. Reducing inefficient use of natural gas will help citizens and businesses lower their heating bills, and will extend the supply of this critical natural resource.

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Therefore, in order to save citizens and businesses money, it is desirable to have natural gas utilities in the state of Colorado implement energy efficiency and conservation programs to help their customers reduce their consumption of natural gas.

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Section 2. Article 2 of Title 40 of the Colorado Revised Statutes is amended by the Addition of a new part to read:

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PART 2

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NATURAL GAS ENERGY EFFICIENCY PROGRAMS

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40-2-126. REQUIREMENT FOR NATURAL GAS ENERGY EFFICIENCY PROGRAMS. (1) IN ORDER TO REDUCE THE CONSUMPTION OF NATURAL GAS BY RESIDENCES AND BUSINESSES AND TO LOWER THE TOTAL UTILITY BILLS PAID BY CONSUMERS OF NATURAL GAS, EACH INVESTOR-OWNED NATURAL GAS DISTRIBUTION UTILITY SHALL DEVELOP AND IMPLEMENT ENERGY EFFICIENCY AND CONSERVATION PROGRAMS FOR ITS CUSTOMERS AND SHALL SPEND AT LEAST 0.5% OF ITS TOTAL REVENUES ON SUCH PROGRAMS. IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THE PUBLIC UTILITIES COMMISSION SHALL INITIATE A RULEMAKING ON OR BEFORE APRIL 1, 2007 TO ESTABLISH WITHOUT MODIFICATION THE FOLLOWING:

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(A) **Definitions.** (I) "COST-EFFECTIVE", WITH REFERENCE TO A NATURAL GAS ENERGY EFFICIENCY OR CONSERVATION PROGRAM OR RELATED MEASURE, MEANS HAVING A BENEFIT-COST RATIO GREATER THAN ONE USING THE TOTAL RESOURCE COST TEST.

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(II) "EDUCATION PROGRAM" MEANS A PROGRAM, INCLUDING BUT NOT LIMITED TO AN ENERGY AUDIT, THAT CONTRIBUTES TO COST-EFFECTIVE CONSERVATION AND ENERGY EFFICIENCY IMPROVEMENTS WITHOUT PROVIDING A FINANCIAL INCENTIVE.

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(III) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF COST-EFFECTIVENESS INCLUDING COSTS PAID BY BOTH PARTICIPATING CUSTOMERS AND A UTILITY FOR CONSERVATION MEASURES, AS WELL AS THE UTILITY'S AVOIDED ENERGY SUPPLY COSTS.

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(IV) "NATURAL GAS CUSTOMERS" INCLUDE FULL SERVICE RESIDENTIAL AND COMMERCIAL CUSTOMERS ONLY, NOT CUSTOMERS WHO PURCHASE GAS ON THE WHOLESALE MARKET AND PAY AN INVESTOR-OWNED UTILITY FOR GAS TRANSPORTATION.

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(B) **Targets, mechanism for recovery of costs, and a financial bonus structure for natural gas utility energy efficiency and conservation programs.**

1 (I) ENERGY EFFICIENCY PROGRAM EXPENDITURE TARGETS EQUAL TO AT LEAST 0.5% OF A UTILITY'S REVENUES FROM ITS NATURAL GAS CUSTOMERS IN 2006;

3 (II) ENERGY EFFICIENCY PROGRAM SAVINGS TARGETS, DEFINED AS AN AMOUNT OF GAS SAVED IN THERMS PER UNIT OF PROGRAM EXPENDITURES IN DOLLARS;

5 (III) PROCEDURES FOR ALLOWING GAS UTILITIES TO RECOVER THEIR PRUDENTLY INCURRED COSTS OF ENERGY EFFICIENCY AND CONSERVATION PROGRAMS WITHOUT HAVING TO FILE A RATE CASE7 SUCH COSTS SHALL INCLUDE BUT NOT BE LIMITED TO FACILITY INVESTMENTS, REBATES, INTEREST RATE BUYDOWNS, INCREMENTAL LABOR COSTS, EMPLOYEE BENEFITS, CARRYING COSTS, EMPLOYEE-RELATED AND OTHER ADMINISTRATIVE COSTS. ALL SUCH COSTS SHALL BE RECOVERED THROUGH A COST ADJUSTMENT MECHANISM THAT IS SET ON AN ANNUAL BASIS, AND THAT IS SIMILAR TO COST ADJUSTMENT MECHANISMS APPROVED BY THE COMMISSION FOR ELECTRICITY DEMAND-SIDE MANAGEMENT (DSM) PROGRAMS. SUCH PROCEDURES SHALL PROVIDE THAT COST RECOVERY FOR PROGRAMS DIRECTED AT RESIDENTIAL CUSTOMERS BE COLLECTED FROM RESIDENTIAL CUSTOMERS ONLY, AND THAT COST RECOVERY FOR PROGRAMS DIRECTED AT BUSINESS CUSTOMERS BE COLLECTED FROM BUSINESS CUSTOMERS ONLY.

16 (IV) A BONUS STRUCTURE FOR REWARDING GAS DISTRIBUTION UTILITIES FOR INVESTMENTS IN COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND MEASURES. THE BONUS SHALL BE STRUCTURED ON A SLIDING SCALE, AND, FOR EACH YEAR OF OPERATION, SHALL BE CAPPED AT 30% OF THE EXPENDITURES OR 15% OF THE NET ECONOMIC BENEFITS OF THE CONSERVATION AND ENERGY EFFICIENCY PROGRAMS BASED ON THE TOTAL RESOURCE COST TEST, WHICHEVER AMOUNT IS LOWER. THE BONUS SHALL BE RELATED TO ACHIEVING THE TARGETS ESTABLISHED BY THE COMMISSION PURSUANT TO SECTION 1(B)(II) ABOVE. THE BONUS SHALL NOT COUNT AGAINST A UTILITY'S AUTHORIZED RATE OF RETURN OR BE CONSIDERED IN RATE PROCEEDINGS. THE COMMISSION MAY SET THE BONUS AT AN AMOUNT LESS THAN THE CAP, AND THE BONUS SHALL BE ADDED TO THE RECOVERY OF PROGRAM EXPENDITURES.

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(2) Energy efficiency program implementation, cost recovery, and reporting.

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(A) WITHIN NINE MONTHS AFTER THE COMPLETION OF THE RULEMAKING REQUIRED BY SECTION (1), EACH INVESTOR-OWNED GAS DISTRIBUTION UTILITY SHALL DEVELOP AND IMPLEMENT A SET OF COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS FOR ITS NATURAL GAS CUSTOMERS. EACH UTILITY MAY DEVELOP PROGRAMS TAKING INTO ACCOUNT THE CHARACTERISTICS OF THE UTILITY AND ITS CUSTOMERS. IN IMPLEMENTING ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, EACH UTILITY SHALL USE REASONABLE EFFORTS TO MAXIMIZE ENERGY SAVINGS CONSISTENT WITH THE ANNUAL ENERGY EFFICIENCY EXPENDITURE TARGET.

(B) THE COMMISSION SHALL AUTHORIZE GAS DISTRIBUTION UTILITIES TO RECOVER THROUGH THE COST RECOVERY MECHANISM REFERRED TO SECTION 1(B)(III), ABOVE, MONEYS SPENT FOR EDUCATION PROGRAMS, IMPACT AND PROCESS EVALUATIONS OF ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, MARKET RESEARCH, AND PROGRAM PLANNING RELATED TO NATURAL GAS ENERGY EFFICIENCY AND CONSERVATION PROGRAMS OFFERED BY THE UTILITY. THESE ACTIVITIES SHALL NOT BE SUBJECT TO COST EFFECTIVENESS REQUIREMENTS.

(C) GAS DISTRIBUTION UTILITIES SHALL SUBMIT TO THE COMMISSION REPORTS ON THEIR ENERGY EFFICIENCY AND CONSERVATION PROGRAMS ANNUALLY WITHIN 120 DAYS OF THE END OF THE PROGRAM YEAR. THE REPORTS SHALL DOCUMENT PROGRAM EXPENDITURES, ENERGY SAVINGS IMPACTS AND THE TECHNIQUES USED TO ESTIMATE THESE IMPACTS, THE ESTIMATED COST-EFFECTIVENESS OF PROGRAM EXPENDITURES, AND ANY OTHER INFORMATION THE COMMISSION MAY REQUIRE.

(D) THE COMMISSION SHALL REVIEW SUCH REPORTS AND DETERMINE THE LEVEL OF BONUS, IF ANY, THAT A UTILITY IS ELIGIBLE TO COLLECT, WITHIN THREE MONTHS AFTER RECEIVING THE ANNUAL REPORT.

(E) THE UTILITY IS AUTHORIZED TO COLLECT THE BONUS AS A SUPPLEMENT TO THE GAS DSM ADJUSTMENT MECHANISM OVER A TWELVE-MONTH PERIOD AFTER ANY BONUS IS APPROVED.

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Section 3. This article shall be effective on December 1, 2006.

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