

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0098.01 Jason Gelender x4330

HOUSE BILL 19-1037

HOUSE SPONSORSHIP

Hansen,

SENATE SPONSORSHIP

(None),

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ENERGY ASSET MANAGEMENT, AND, IN CONNECTION
102 THEREWITH, AUTHORIZING THE ISSUANCE OF LOW-COST
103 RATEPAYER-BACKED BONDS AND CREATING THE COLORADO
104 ENERGY IMPACT ASSISTANCE AUTHORITY TO MITIGATE THE
105 IMPACTS OF POWER PLANT RETIREMENTS ON COLORADO
106 WORKERS AND COMMUNITIES.

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, known as the "Colorado Energy Impact Assistance Act",

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.

authorizes any electric utility (utility) to apply to the public utilities commission (PUC) for a financing order that will authorize the utility to issue low-cost Colorado energy impact assistance bonds (bonds) to lower the cost to electric utility customers (ratepayers) when the retirement of a power plant occurs. A portion of bond proceeds will provide transition assistance for Colorado workers and communities directly affected by the retirement of the facilities (transition assistance). To repay the bonds at the lowest cost to ratepayers, the PUC is authorized to review and approve a financing order and authorize a special energy impact assistance charge that is separate and apart from the utility's base rates on all ratepayer bills. The establishment and ongoing adjustment of the separate charge will allow bonds to achieve the highest possible credit rating, at least AA/Aa2, from the national independent credit rating agencies and will therefore allow bonds to be issued at the lowest possible interest rate and lowest subsequent cost to ratepayers.

Before issuing a financing order, the PUC must hold a public hearing, receive testimony from affected groups, and make specified determinations concerning the necessity, prudence, justness, reasonableness, and quantifiable benefits to utility ratepayers of issuing the financing order. After the public hearing process, if a financing order is approved by the PUC, it must include specific information and instructions for the utility to which it applies relating to the amount of bonds to be issued and the imposition of the energy impact assistance charge and must require the utility to pay a specified percentage of the net present value of the savings to a newly created Colorado energy impact assistance authority (authority) for the payment of transition assistance by the authority and the authority's reasonable and necessary administrative and operating costs. As an alternative to the financing order and bond issuance process, upon the closure of an electric generating facility, a Colorado electric utility may transfer to the authority an amount of up to 15% of the net present value of operational savings created by the closure of the electric generating facility, and such a transfer shall be deemed by the PUC to be a prudent action by the utility.

The bill specifies that the authority is governed by a 7-member board of directors appointed by the governor and specifies mandatory and suggested occupational experience for the directors. The authority is authorized to receive bond proceeds from a utility to which a financing order applies and use the bond proceeds to provide transition assistance and pay its reasonable and necessary administrative and operating costs.

Transition assistance is defined to include payment of retraining costs, including costs of apprenticeship programs and skilled worker retraining programs, for and financial assistance to directly displaced Colorado facility workers, compensation to Colorado local governments for lost property tax revenue directly resulting from the retirement of a facility, and similar payments, job retraining, assistance, and

compensation for directly displaced Colorado workers and local governments in areas that produce fuel used in the retired facility directly resulting from the elimination of the need for fuel at the facility. The authority must disburse at least 50% of the transition assistance that it provides directly to Colorado workers. In addition, when determining how best to provide transition assistance to a local community, the authority must, in conjunction with each board of county commissioners, municipal governing body, and school district that includes all or a portion of the impacted community, establish and take into consideration the advice of a local advisory committee. The authority is subject to open meeting and open records requirements and is required to submit a report to specified committees of the general assembly that sets forth a complete and detailed financial and operating statement of the authority for any fiscal year for which the authority has provided transition assistance.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 41 to title
3 40 as follows:

4 **ARTICLE 41**

5 **Colorado Energy Impact Assistance Act**

6 **PART 1**

7 **ENERGY IMPACT ASSISTANCE BONDS**

8 **40-41-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 41 IS
9 THE "COLORADO ENERGY IMPACT ASSISTANCE ACT".

10 **40-41-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
11 HEREBY FINDS AND DECLARES THAT:

12 (a) COLORADO'S ELECTRIC UTILITIES WILL CONTINUE TO FACE THE
13 NEED TO RETIRE EXISTING ELECTRIC GENERATING FACILITIES TO REDUCE
14 ELECTRICITY RATES FOR CUSTOMERS AND ENSURE THE HEALTH AND
15 WELL-BEING OF COLORADO'S NATURAL ENVIRONMENT AND RESIDENTS;

16 (b) THE CLOSURE OF ELECTRIC GENERATING FACILITIES MAY HAVE
17 DIRECT ECONOMIC IMPACTS ON COLORADO COMMUNITIES WHERE THE

1 FACILITIES ARE LOCATED, ELECTRIC GENERATING FACILITY WORKERS, AND
2 COMMUNITIES WHERE FUELS FOR THE FACILITIES ARE PRODUCED;

3 (c) CUSTOMERS OF COLORADO'S ELECTRIC UTILITIES HAVE AN
4 INTEREST IN ENSURING THAT THEIR UTILITIES ARE PROVIDING EFFICIENT
5 AND COST-EFFECTIVE ELECTRIC GENERATION;

6 (d) COLORADO COMMUNITIES AND WORKERS MAY BE DIRECTLY
7 AFFECTED BY THE CLOSURE OF ELECTRIC GENERATING FACILITIES, AND IT
8 IS IN THE BEST INTEREST OF THE STATE TO ENSURE THAT COLORADO'S
9 WORKFORCE IS ABLE TO ADAPT TO THE STATE'S CHANGING ENERGY
10 PORTFOLIO;

11 (e) THERE ARE ALTERNATIVE FINANCING MECHANISMS USED BY
12 MORE THAN TWENTY OTHER STATES SINCE 1997 THAT WILL RESULT IN
13 LOWER COSTS TO ELECTRIC UTILITY CUSTOMERS, AND THE USE OF THESE
14 MECHANISMS CAN ENSURE THAT BOTH THE COSTS OF RETIRING ELECTRIC
15 GENERATING FACILITIES LOCATED IN THE STATE AND TRANSITION COSTS
16 FOR DIRECTLY AFFECTED COLORADO COMMUNITIES AND ELECTRIC
17 GENERATING FACILITY WORKERS CAN BE FINANCED IN A WAY THAT
18 REDUCES THE TOTAL AMOUNT OF COSTS BEING INCLUDED IN CUSTOMER
19 RATES;

20 (f) CUSTOMER COSTS OF ALTERNATIVE FINANCING MECHANISMS
21 CAN BE MINIMIZED BY ACHIEVING THE HIGHEST POSSIBLE CREDIT RATING
22 FROM INDEPENDENT CREDIT RATING AGENCIES, WHICH REQUIRES SPECIAL
23 PROCEDURES AND CONDITIONS INCLUDING:

24 (I) THE USE OF LIMITED PURPOSE BANKRUPTCY-REMOTE
25 FINANCING ENTITIES TO ISSUE RATEPAYER-BACKED BONDS;

26 (II) THE CREATION OF A PROPERLY STRUCTURED AND
27 IMPLEMENTED ADJUSTMENT MECHANISM TO ADJUST THE CHARGE

1 DEDICATED TO THE REPAYMENT OF THE BONDS TO ENABLE CONSISTENT,
2 ACCURATE, AND TIMELY REMITTANCES TO THE FINANCING ENTITIES FOR
3 THE BENEFIT OF BONDHOLDERS; AND

4 (III) A STATE PLEDGE THAT CONSTITUTES AN ENFORCEABLE
5 PROMISE TO GUARANTEE THE PAYMENT OF PRINCIPAL AND INTEREST ON
6 SECURITIZED ELECTRIC UTILITY RATEPAYER-BACKED BONDS AS THOSE
7 AMOUNTS BECOME LEGALLY DUE AND OWING; AND

8 (g) TO IMPLEMENT THIS ALTERNATIVE FINANCING MECHANISM, IT
9 IS NECESSARY TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO
10 REVIEW AND APPROVE ONE OR MORE FINANCING ORDERS THAT ADVANCE
11 THESE GOALS IF IT DEEMS SUCH APPROVAL APPROPRIATE AND IN THE
12 INTEREST OF RATEPAYERS.

13 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

14 (a) IT IS THE POLICY OF THE STATE TO ASSIST COLORADO ELECTRIC
15 GENERATING FACILITY WORKERS WHO ARE DIRECTLY IMPACTED BY THE
16 RETIREMENT OF ELECTRIC GENERATING FACILITIES, THE COMMUNITIES
17 WHERE THE FACILITIES ARE LOCATED, AND THE COMMUNITIES WHERE
18 FUELS FOR THE FACILITIES ARE PRODUCED;

19 (b) IT IS THEREFORE IN THE INTEREST OF THE STATE AND ITS
20 CITIZENS TO ENCOURAGE AND FACILITATE THE USE OF SECURITIZED
21 RATEPAYER-BACKED BONDS AS A METHOD FOR ENABLING ELECTRIC
22 UTILITIES TO LOWER THE COST OF FINANCING THE RETIREMENT OF
23 ELECTRIC GENERATING FACILITIES UNDER CERTAIN CONDITIONS AND TO
24 EMPOWER THE PUBLIC UTILITIES COMMISSION TO REVIEW SUCH
25 SECURITIZATION MECHANISMS TO DETERMINE WHETHER THEY ARE
26 CONSISTENT WITH THE PUBLIC INTEREST AND WORTHY OF APPROVAL;

27 (c) THE PRIMARY PURPOSE OF THIS ACT IS TO AUTHORIZE THE

1 ISSUANCE OF LOW-COST SECURITIZED RATEPAYER-BACKED BONDS, THE
2 PROCEEDS OF WHICH MUST BE USED SOLELY:

3 (I) TO PROVIDE TRANSITION ASSISTANCE TO COLORADO
4 COMMUNITIES AND ELECTRIC GENERATING FACILITY WORKERS THAT ARE
5 DIRECTLY IMPACTED BY THE RETIREMENT OF ELECTRIC GENERATING
6 FACILITIES;

7 (II) TO LOWER RATES PAID BY ELECTRIC UTILITY CUSTOMERS BY
8 REDUCING FINANCING COSTS OF CERTAIN RETIRED ELECTRIC GENERATING
9 FACILITIES; AND

10 (III) TO MAKE AVAILABLE CAPITAL INVESTMENT FOR MODERNIZED
11 FACILITIES AND SERVICES INCLUDING LEAST-COST ELECTRIC GENERATING
12 FACILITIES AND OTHER SUPPLY-SIDE AND DEMAND-SIDE RESOURCES; AND

13 (d) AN ADDITIONAL PURPOSE OF THIS ACT IS TO CREATE THE
14 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY TO ASSIST WITH THE
15 ADMINISTRATION OF THE PORTION OF SECURITIZED RATEPAYER-BACKED
16 BOND PROCEEDS THAT IS DEDICATED TO TRANSITION ASSISTANCE FOR
17 DIRECTLY IMPACTED COLORADO COMMUNITIES AND ELECTRIC
18 GENERATING FACILITY WORKERS.

19 **40-41-103. Definitions.** AS USED IN THIS ARTICLE 41 AND FOR USE
20 BY THE COMMISSION, AND IN THE COURSE OF THE REVIEW BY
21 INDEPENDENT CREDIT RATING AGENCIES THAT IS NECESSARY TO ACHIEVE
22 THE HIGHEST POSSIBLE BOND RATINGS, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (1) "ANCILLARY AGREEMENT" MEANS ANY BOND, INSURANCE
25 POLICY, LETTER OF CREDIT, RESERVE ACCOUNT, SURETY BOND, INTEREST
26 RATE LOCK OR SWAP ARRANGEMENT, HEDGING ARRANGEMENT, LIQUIDITY
27 OR CREDIT SUPPORT ARRANGEMENT, OR OTHER FINANCIAL ARRANGEMENT

1 ENTERED INTO IN CONNECTION WITH CO-EIA BONDS THAT IS DESIGNED TO
2 PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE CO-EIA
3 BONDS OR TO MITIGATE THE RISK OF AN INCREASE IN INTEREST RATES.

4 (2) "ASSIGNEE" MEANS ANY PERSON TO WHICH AN INTEREST IN
5 CO-EIA PROPERTY IS SOLD, ASSIGNED, TRANSFERRED, OR CONVEYED,
6 OTHER THAN AS SECURITY, AND ANY SUCCESSOR TO OR SUBSEQUENT
7 ASSIGNEE OF SUCH A PERSON.

8 (3) "AUTHORITY" MEANS THE COLORADO ENERGY IMPACT
9 ASSISTANCE AUTHORITY CREATED IN SECTION 40-41-201 (1).

10 (4) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY
11 CREATED IN SECTION 40-41-201 (2)(a).

12 (5) "BONDHOLDER" MEANS ANY HOLDER OR OWNER OF CO-EIA
13 BONDS.

14 (6) "CO-EIA" MEANS COLORADO ENERGY IMPACT ASSISTANCE.

15 (7) "CO-EIA BONDS" MEANS LOW-COST CORPORATE SECURITIES,
16 SUCH AS SENIOR SECURED BONDS, DEBENTURES, NOTES, CERTIFICATES OF
17 PARTICIPATION, CERTIFICATES OF BENEFICIAL INTEREST, CERTIFICATES OF
18 OWNERSHIP, OR OTHER EVIDENCES OF INDEBTEDNESS OR OWNERSHIP THAT
19 HAVE A SCHEDULED MATURITY OF NO LONGER THAN THIRTY YEARS AND
20 A FINAL LEGAL MATURITY DATE THAT IS NOT LATER THAN THIRTY-TWO
21 YEARS FROM THE ISSUE DATE, THAT ARE RATED AA OR AA2 OR BETTER BY
22 A MAJOR INDEPENDENT CREDIT RATING AGENCY AT THE TIME OF
23 ISSUANCE, AND THAT ARE ISSUED BY AN ELECTRIC UTILITY OR AN
24 ASSIGNEE PURSUANT TO A FINANCING ORDER, THE PROCEEDS OF WHICH
25 ARE USED TO RECOVER, FINANCE, OR REFINANCE COMMISSION-APPROVED
26 CO-EIA COSTS AND FINANCING COSTS, INCLUDING ASSISTANCE TO
27 AFFECTED WORKERS AND COMMUNITIES, AND THAT ARE SECURED BY OR

1 PAYABLE FROM CO-EIA PROPERTY. IF CERTIFICATES OF PARTICIPATION OR
2 OWNERSHIP ARE ISSUED, REFERENCES IN THIS SECTION TO PRINCIPAL,
3 INTEREST, OR PREMIUM REFER TO COMPARABLE AMOUNTS UNDER THOSE
4 CERTIFICATES.

5 (8) "CO-EIA CHARGE" MEANS A CHARGE IN AN AMOUNT
6 DETERMINED APPROPRIATE BY THE COMMISSION AND AUTHORIZED BY THE
7 COMMISSION IN A FINANCING ORDER IN ORDER TO PROVIDE A SOURCE OF
8 REVENUE SOLELY TO REPAY, FINANCE, OR REFINANCE CO-EIA COSTS AND
9 FINANCING COSTS THAT ARE IMPOSED ON AND ARE A PART OF ALL
10 CUSTOMER BILLS AND ARE COLLECTED IN FULL BY THE ELECTRIC UTILITY
11 TO WHICH THE FINANCING ORDER APPLIES, ITS SUCCESSORS OR ASSIGNEES,
12 OR A COLLECTION AGENT THROUGH A NONBYPASSABLE CHARGE THAT IS
13 SEPARATE AND APART FROM THE ELECTRIC UTILITY'S BASE RATES.

14 (9) (a) "CO-EIA COSTS" MEANS:

15 (I) (A) AT THE OPTION OF AND UPON PETITION BY AN ELECTRIC
16 UTILITY, AND AS APPROVED BY THE COMMISSION PURSUANT TO SECTION
17 40-41-105, THE PRETAX COSTS THAT THE ELECTRIC UTILITY HAS INCURRED
18 OR WILL INCUR THAT ARE CAUSED BY, ASSOCIATED WITH, OR REMAIN AS
19 A RESULT OF THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY
20 LOCATED IN THE STATE.

21 (B) AS USED IN THIS SUBSECTION (9), "PRETAX COSTS", IF
22 APPROVED BY THE COMMISSION, INCLUDE, BUT ARE NOT LIMITED TO, THE
23 UNRECOVERED CAPITALIZED COST OF A RETIRED ELECTRIC GENERATING
24 FACILITY, COSTS OF DECOMMISSIONING AND RESTORING THE SITE OF THE
25 ELECTRIC GENERATING FACILITY, AND OTHER APPLICABLE CAPITAL AND
26 OPERATING COSTS, ACCRUED CARRYING CHARGES, DEFERRED EXPENSES,
27 REDUCTIONS FOR APPLICABLE INSURANCE AND SALVAGE PROCEEDS AND

1 THE COSTS OF RETIRING ANY EXISTING INDEBTEDNESS, FEES, COSTS, AND
2 EXPENSES TO MODIFY EXISTING DEBT AGREEMENTS OR FOR WAIVERS OR
3 CONSENTS RELATED TO EXISTING DEBT AGREEMENTS.

4 (II) AMOUNTS REQUIRED TO BE TRANSFERRED TO THE AUTHORITY
5 FOR TRANSITION ASSISTANCE AND THE PAYMENT OF THE AUTHORITY'S
6 REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS
7 REQUIRED BY A FINANCING ORDER.

8 (III) PRETAX COSTS THAT AN ELECTRIC UTILITY HAS PREVIOUSLY
9 INCURRED RELATED TO THE COMMISSION-APPROVED CLOSURE OF AN
10 ELECTRIC GENERATING FACILITY OCCURRING BEFORE THE EFFECTIVE DATE
11 OF THIS SECTION.

12 (b) "CO-EIA COSTS" DO NOT INCLUDE ANY MONETARY PENALTY,
13 FINE, OR FORFEITURE ASSESSED AGAINST AN ELECTRIC UTILITY BY A
14 GOVERNMENT AGENCY OR COURT UNDER A FEDERAL OR STATE
15 ENVIRONMENTAL STATUTE, RULE, OR REGULATION.

16 (10) "CO-EIA PROPERTY" MEANS:

17 (a) ALL RIGHTS AND INTERESTS OF AN ELECTRIC UTILITY OR
18 SUCCESSOR OR ASSIGNEE OF AN ELECTRIC UTILITY UNDER A FINANCING
19 ORDER FOR THE RIGHT TO IMPOSE, BILL, COLLECT, AND RECEIVE CO-EIA
20 CHARGES AS IT IS AUTHORIZED TO DO SOLELY UNDER THE FINANCING
21 ORDER AND TO OBTAIN PERIODIC ADJUSTMENTS TO SUCH CO-EIA
22 CHARGES AS PROVIDED IN THE FINANCING ORDER; AND

23 (b) ALL REVENUE, COLLECTIONS, CLAIMS, RIGHTS TO PAYMENTS,
24 PAYMENTS, MONEY, OR PROCEEDS ARISING FROM THE RIGHTS AND
25 INTERESTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION,
26 REGARDLESS OF WHETHER SUCH REVENUE, COLLECTIONS, CLAIMS, RIGHTS
27 TO PAYMENT, PAYMENTS, MONEY, OR PROCEEDS ARE IMPOSED, BILLED,

1 RECEIVED, COLLECTED, OR MAINTAINED TOGETHER WITH OR COMMINGLED
2 WITH OTHER REVENUE, COLLECTIONS, RIGHTS TO PAYMENT, PAYMENTS,
3 MONEY, OR PROCEEDS.

4 (11) "CO-EIA REVENUE" MEANS ALL REVENUE, RECEIPTS,
5 COLLECTIONS, PAYMENTS, MONEY, CLAIMS, OR OTHER PROCEEDS ARISING
6 FROM CO-EIA PROPERTY.

7 (12) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
8 THE STATE OF COLORADO.

9 (13) "CUSTOMER" MEANS A PERSON THAT TAKES ELECTRIC
10 DISTRIBUTION OR ELECTRIC TRANSMISSION SERVICE FROM AN ELECTRIC
11 UTILITY FOR CONSUMPTION OF ELECTRICITY IN THE STATE.

12 (14) "ELECTRIC UTILITY" MEANS AN ENTITY OPERATING FOR THE
13 PURPOSE OF SUPPLYING ELECTRICITY TO THE PUBLIC FOR DOMESTIC,
14 MECHANICAL, OR PUBLIC USES AND INCLUDES AN INVESTOR-OWNED
15 ELECTRIC UTILITY SUBJECT TO REGULATION UNDER ARTICLES 1 TO 7 OF
16 THIS TITLE 40; A MUNICIPALLY OWNED UTILITY; AND A COOPERATIVE
17 ELECTRIC ASSOCIATION.

18 (15) "FINANCING COSTS" MEANS, IF APPROVED BY THE
19 COMMISSION IN A FINANCING ORDER, COSTS TO ISSUE, SERVICE, REPAY, OR
20 REFINANCE CO-EIA BONDS, WHETHER INCURRED OR PAID UPON ISSUANCE
21 OF THE CO-EIA BONDS OR OVER THE LIFE OF THE CO-EIA BONDS, AND
22 INCLUDES:

23 (a) PRINCIPAL, INTEREST, AND REDEMPTION PREMIUMS THAT ARE
24 PAYABLE ON CO-EIA BONDS;

25 (b) ANY PAYMENT REQUIRED UNDER AN ANCILLARY AGREEMENT
26 AND ANY AMOUNT REQUIRED TO FUND OR REPLENISH A RESERVE ACCOUNT
27 OR OTHER ACCOUNTS ESTABLISHED UNDER THE TERMS OF ANY INDENTURE,

1 ANCILLARY AGREEMENT, OR OTHER FINANCING DOCUMENT PERTAINING TO
2 CO-EIA BONDS;

3 (c) ANY OTHER DEMONSTRABLE COSTS RELATED TO ISSUING,
4 SUPPORTING, REPAYING, REFUNDING, AND SERVICING CO-EIA BONDS,
5 INCLUDING, BUT NOT LIMITED TO, SERVICING FEES, ACCOUNTING AND
6 AUDITING FEES, TRUSTEE FEES, LEGAL FEES, CONSULTING FEES, FINANCIAL
7 ADVISOR FEES, ADMINISTRATIVE FEES, PLACEMENT AND UNDERWRITING
8 FEES, CAPITALIZED INTEREST, RATING AGENCY FEES, STOCK EXCHANGE
9 LISTING AND COMPLIANCE FEES, SECURITY REGISTRATION FEES, FILING
10 FEES, INFORMATION TECHNOLOGY PROGRAMMING COSTS, AND ANY OTHER
11 DEMONSTRABLE COSTS NECESSARY TO OTHERWISE ENSURE AND
12 GUARANTEE THE TIMELY PAYMENT OF CO-EIA BONDS OR OTHER
13 AMOUNTS OR CHARGES PAYABLE IN CONNECTION WITH CO-EIA BONDS;

14 (d) ANY TAXES AND LICENSE FEES IMPOSED ON THE REVENUE
15 GENERATED FROM THE COLLECTION OF A CO-EIA CHARGE;

16 (e) ANY STATE AND LOCAL TAXES, INCLUDING FRANCHISE, SALES
17 AND USE, AND OTHER TAXES OR SIMILAR CHARGES, INCLUDING, BUT NOT
18 LIMITED TO, REGULATORY ASSESSMENT FEES, WHETHER PAID, PAYABLE,
19 OR ACCRUED; AND

20 (f) ANY COSTS INCURRED BY THE COMMISSION TO HIRE AND
21 COMPENSATE ADDITIONAL TEMPORARY STAFF NEEDED TO PERFORM ITS
22 RESPONSIBILITIES UNDER THIS ARTICLE 41 AND ENGAGE SPECIALIZED
23 COUNSEL AND EXPERT CONSULTANTS EXPERIENCED IN SECURITIZED
24 ELECTRIC UTILITY RATEPAYER-BACKED BOND FINANCING SIMILAR TO
25 CO-EIA BONDS.

26 (16) "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION
27 ISSUED PURSUANT TO SECTION 40-41-105 THAT GRANTS, IN WHOLE OR IN

1 PART, AN APPLICATION FILED PURSUANT TO SECTION 40-41-104 AND THAT
2 AUTHORIZES THE ISSUANCE OF CO-EIA BONDS IN ONE OR MORE SERIES,
3 THE IMPOSITION, CHARGING, AND COLLECTION OF CO-EIA CHARGES, AND
4 THE CREATION OF CO-EIA PROPERTY. IN A FINANCING ORDER, THE
5 COMMISSION MAY INCLUDE ANY CONDITIONS THAT ARE NECESSARY TO
6 PROMOTE THE PUBLIC INTEREST AND MAY GRANT RELIEF THAT IS
7 DIFFERENT FROM THAT WHICH WAS REQUESTED IN THE APPLICATION SO
8 LONG AS THE RELIEF IS WITHIN THE SCOPE OF THE MATTERS ADDRESSED IN
9 THE COMMISSION'S NOTICE OF THE APPLICATION.

10 (17) "FINANCING PARTY" MEANS HOLDERS OF CO-EIA BONDS AND
11 TRUSTEES, COLLATERAL AGENTS, ANY PARTY UNDER AN ANCILLARY
12 AGREEMENT, OR ANY OTHER PERSON ACTING FOR THE BENEFIT OF
13 HOLDERS OF CO-EIA BONDS.

14 (18) "FINANCING STATEMENT" HAS THE SAME MEANING AS SET
15 FORTH IN SECTION 4-9-102 (39).

16 (19) "NONBYPASSABLE" MEANS THAT THE PAYMENT OF A CO-EIA
17 CHARGE REQUIRED TO REPAY BONDS AND RELATED COSTS MAY NOT BE
18 AVOIDED BY ANY CUSTOMER LOCATED WITHIN AN ELECTRIC UTILITY
19 SERVICE AREA, BUT MUST BE PAID BY:

20 (a) ALL EXISTING AND FUTURE CUSTOMERS RECEIVING
21 TRANSMISSION OR DISTRIBUTION SERVICE FROM THE ELECTRIC UTILITY OR
22 ITS SUCCESSORS OR ASSIGNEES UNDER COMMISSION-APPROVED RATE
23 SCHEDULES OR UNDER SPECIAL CONTRACTS, EVEN IF A CUSTOMER ELECTS
24 TO PURCHASE ELECTRICITY FROM AN ELECTRIC SUPPLIER OTHER THAN THE
25 UTILITY; AND

26 (b) ANY PERSON LOCATED WITHIN THE ELECTRIC UTILITY SERVICE
27 AREA THAT MAY SUBSEQUENTLY RECEIVE ELECTRIC TRANSMISSION OR

1 DISTRIBUTION SERVICE FROM ANOTHER ELECTRIC UTILITY OPERATING IN
2 THE SAME SERVICE AREA.

3 (20) "SUCCESSOR" MEANS, WITH RESPECT TO ANY LEGAL ENTITY,
4 ANOTHER LEGAL ENTITY THAT SUCCEEDS BY OPERATION OF LAW TO THE
5 RIGHTS AND OBLIGATIONS OF THE FIRST LEGAL ENTITY PURSUANT TO ANY
6 BANKRUPTCY, REORGANIZATION, RESTRUCTURING, OTHER INSOLVENCY
7 PROCEEDING, MERGER, ACQUISITION, CONSOLIDATION, OR SALE OR
8 TRANSFER OF ASSETS, WHETHER ANY OF THESE OCCUR DUE TO A
9 RESTRUCTURING OF THE ELECTRIC POWER INDUSTRY OR OTHERWISE.

10 (21) "TRANSITION ASSISTANCE" MEANS ASSISTANCE PROVIDED BY
11 OR DIRECTED BY THE AUTHORITY USING CO-EIA BOND PROCEEDS
12 TRANSFERRED BY AN ELECTRIC UTILITY TO THE AUTHORITY PURSUANT TO
13 THE TERMS OF A FINANCING ORDER TO ASSIST COLORADO COMMUNITIES
14 THAT ARE DIRECTLY IMPACTED BY THE RETIREMENT OF AN ELECTRIC
15 GENERATING FACILITY AND MAY INCLUDE, WITHOUT LIMITATION:

16 (a) PAYMENT OF RETRAINING COSTS, INCLUDING COSTS OF ANY
17 APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-303 (2), OR
18 SKILLED WORKER TRAINING PROGRAM, AS DEFINED IN SECTION 8-83-303
19 (10), FOR DIRECTLY DISPLACED ELECTRIC GENERATING FACILITY
20 WORKERS;

21 (b) FINANCIAL ASSISTANCE FOR DIRECTLY DISPLACED ELECTRIC
22 GENERATING FACILITY WORKERS;

23 (c) FOR A PERIOD OF NO MORE THAN FIVE YEARS, COMPENSATION
24 TO LOCAL GOVERNMENTS FOR LOSSES OF PROPERTY TAX REVENUE
25 RESULTING DIRECTLY FROM THE RETIREMENT OF THE ELECTRIC
26 GENERATING FACILITY, WHICH COMPENSATION MAY BE REDUCED
27 ANNUALLY DURING THE PERIOD DURING WHICH IT IS PROVIDED;

1 (d) PAYMENT OF RETRAINING COSTS, INCLUDING COSTS OF ANY
2 APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-303 (2), OR
3 SKILLED WORKER TRAINING PROGRAM, AS DEFINED IN SECTION 8-83-303
4 (10), AND PROVISION OF FINANCIAL ASSISTANCE, INCLUDING WAGE
5 SUPPORT OR SUPPLEMENTAL RETIREMENT SUPPORT, FOR COLORADO
6 WORKERS AND ASSISTANCE TO LOCAL GOVERNMENTS WITH LOSSES OF TAX
7 REVENUE DIRECTLY RELATED TO PRODUCTION OF FUEL PREVIOUSLY USED
8 IN THE RETIRED FACILITIES; AND

9 (e) JOB RETRAINING AND EDUCATION FOR WORKERS WHO ARE
10 COLORADO RESIDENTS WHO WERE DIRECTLY INVOLVED IN THE TRANSPORT
11 OF FUEL TO A RETIRED COLORADO ELECTRIC GENERATING FACILITY AND
12 WHO ARE LAID OFF OR EXPERIENCE REDUCED WORK SCHEDULES
13 RESULTING FROM THE RETIREMENT OF THE ELECTRIC GENERATING
14 FACILITY.

15 **40-41-104. Financing orders - application requirements.**

16 (1) AN ELECTRIC UTILITY MAY APPLY TO THE COMMISSION FOR A
17 FINANCING ORDER AS AUTHORIZED BY THIS SECTION.

18 (2) (a) AN INVESTOR-OWNED OR OTHER REGULATED ELECTRIC
19 UTILITY MAY FILE AN APPLICATION FOR APPROVAL TO ISSUE CO-EIA
20 BONDS IN ONE OR MORE SERIES, IMPOSE, CHARGE, AND COLLECT CO-EIA
21 CHARGES, AND CREATE CO-EIA PROPERTY RELATED TO THE RETIREMENT
22 OF AN ELECTRIC GENERATING FACILITY IN COLORADO THAT HAS
23 PREVIOUSLY BEEN APPROVED BY THE COMMISSION.

24 (b) AN ELECTRIC UTILITY THAT IS NOT REGULATED MAY FILE AN
25 APPLICATION FOR APPROVAL TO ISSUE CO-EIA BONDS IN ONE OR MORE
26 SERIES, IMPOSE, CHARGE, AND COLLECT CO-EIA CHARGES, AND CREATE
27 CO-EIA PROPERTY RELATED TO THE RETIREMENT OF AN ELECTRIC

1 GENERATING FACILITY IN COLORADO.

2 (c) THE COMMISSION SHALL TAKE FINAL ACTION TO APPROVE,
3 DENY, OR MODIFY ANY APPLICATION FOR A FINANCING ORDER AS
4 DESCRIBED IN SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION IN A FINAL
5 ORDER ISSUED IN ACCORDANCE WITH THE COMMISSION'S RULES FOR
6 ADDRESSING APPLICATIONS.

7 (3) IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE
8 COMMISSION, AN APPLICATION FOR A FINANCING ORDER MUST INCLUDE
9 THE FOLLOWING INFORMATION:

10 (a) AN ESTIMATED SCHEDULE FOR THE RETIREMENT;

11 (b) A SPECIFICATION OF THE EFFECTS OF THE PROPOSED CO-EIA
12 BOND FINANCING ON THE RETIREMENT;

13 (c) A PROPOSED METHODOLOGY FOR ALLOCATING THE REVENUE
14 REQUIREMENT FOR THE CO-EIA CHARGE AMONG CUSTOMER CLASSES;

15 (d) A DESCRIPTION OF THE NONBYPASSABLE CO-EIA CHARGE
16 REQUIRED TO BE PAID BY CUSTOMERS WITHIN THE ELECTRIC UTILITY'S
17 SERVICE AREA FOR RECOVERY OF CO-EIA COSTS;

18 (e) AN ESTIMATE OF THE NET PRESENT VALUE OF ELECTRIC UTILITY
19 CUSTOMER SAVINGS EXPECTED TO RESULT IF THE FINANCING ORDER IS
20 ISSUED AS DETERMINED BY A NET PRESENT VALUE COMPARISON BETWEEN
21 THE COSTS TO CUSTOMERS THAT ARE EXPECTED TO RESULT FROM THE
22 FINANCING OF THE UNDEPRECIATED BALANCES OF ELECTRIC GENERATING
23 FACILITIES WITH CO-EIA BONDS AND THE COSTS THAT WOULD RESULT
24 FROM THE APPLICATION OF TRADITIONAL ELECTRIC UTILITY FINANCING
25 MECHANISMS TO THE SAME UNDEPRECIATED BALANCES; AND

26 (f) ONE OR MORE ALTERNATIVE FINANCING SCENARIOS IN
27 ADDITION TO THE PREFERRED SCENARIO CONTAINED IN THE APPLICATION.

1 **40-41-105. Issuance of financing orders.** (1) FOLLOWING
2 NOTICE AND HEARING ON AN APPLICATION FOR A FINANCING ORDER AS
3 REQUIRED BY THE COMMISSION'S RULES, PRACTICE, AND PROCEDURE, THE
4 COMMISSION MAY ISSUE A FINANCING ORDER IF THE COMMISSION FINDS
5 THAT:

6 (a) THE CO-EIA COSTS DESCRIBED IN THE APPLICATION RELATED
7 TO THE RETIREMENT OF THE ELECTRIC GENERATING FACILITIES ARE
8 REASONABLE;

9 (b) THE PROPOSED ISSUANCE OF CO-EIA BONDS AND THE
10 IMPOSITION AND COLLECTION OF CO-EIA CHARGES:

11 (I) ARE JUST AND REASONABLE;

12 (II) ARE CONSISTENT WITH THE PUBLIC INTEREST;

13 (III) CONSTITUTE A PRUDENT AND REASONABLE MECHANISM FOR
14 THE FINANCING OF THE CO-EIA COSTS DESCRIBED IN THE APPLICATION;
15 AND

16 (IV) WILL PROVIDE SUBSTANTIAL, TANGIBLE, AND QUANTIFIABLE
17 BENEFITS TO CUSTOMERS THAT ARE GREATER THAN THE BENEFITS THAT
18 WOULD HAVE BEEN ACHIEVED ABSENT THE ISSUANCE OF CO-EIA BONDS;
19 AND

20 (c) THE PROPOSED STRUCTURING, MARKETING, AND PRICING OF
21 THE CO-EIA BONDS WILL:

22 (I) SIGNIFICANTLY LOWER OVERALL COSTS TO CUSTOMERS OR
23 SIGNIFICANTLY MITIGATE RATE IMPACTS TO CUSTOMERS RELATIVE TO
24 TRADITIONAL METHODS OF FINANCING; AND

25 (II) ACHIEVE THE MAXIMUM NET PRESENT VALUE OF CUSTOMER
26 SAVINGS, AS DETERMINED BY THE COMMISSION IN A FINANCING ORDER,
27 CONSISTENT WITH MARKET CONDITIONS AT THE TIME OF SALE AND THE

1 TERMS OF THE FINANCING ORDER.

2 (2) THE FINANCING ORDER MUST:

3 (a) DETERMINE THE MAXIMUM AMOUNT OF CO-EIA COSTS THAT
4 MAY BE FINANCED FROM PROCEEDS OF CO-EIA BONDS AUTHORIZED TO BE
5 ISSUED BY THE FINANCING ORDER;

6 (b) PROVIDE THAT AN AMOUNT OF CO-EIA BOND PROCEEDS
7 EQUAL TO FIFTEEN PERCENT OF THE NET PRESENT VALUE OF ELECTRIC
8 UTILITY CUSTOMER SAVINGS ESTIMATED PURSUANT TO SECTION 40-41-104
9 (3)(e) BE TRANSFERRED TO THE AUTHORITY BY THE ELECTRIC UTILITY TO
10 WHICH THE FINANCING ORDER APPLIES FOR USE BY THE AUTHORITY IN
11 PROVIDING TRANSITION ASSISTANCE AS REQUIRED BY SECTION 40-41-202
12 AND PAYING ITS REASONABLE AND NECESSARY ADMINISTRATIVE AND
13 OPERATING COSTS AS AUTHORIZED BY SECTION 40-41-201 (3)(f);

14 (c) DESCRIBE THE PROPOSED CUSTOMER BILLING MECHANISM FOR
15 CO-EIA CHARGES AND INCLUDE A FINDING THAT THE MECHANISM IS JUST
16 AND REASONABLE;

17 (d) DESCRIBE THE FINANCING COSTS THAT MAY BE RECOVERED
18 THROUGH CO-EIA CHARGES AND THE PERIOD OVER WHICH THE COSTS
19 MAY BE RECOVERED, WHICH MUST END NO EARLIER THAN THE DATE OF
20 FINAL LEGAL MATURITY OF THE CO-EIA BONDS;

21 (e) DESCRIBE THE CO-EIA PROPERTY THAT IS CREATED AND THAT
22 MAY BE USED TO PAY, AND SECURE THE PAYMENT OF, THE CO-EIA BONDS
23 AND FINANCING COSTS AUTHORIZED IN THE FINANCING ORDER;

24 (f) AUTHORIZE THE APPLICANT ELECTRIC UTILITY TO FINANCE
25 CO-EIA COSTS THROUGH THE ISSUANCE OF ONE OR MORE SERIES OF
26 CO-EIA BONDS. AN ELECTRIC UTILITY IS NOT REQUIRED TO SECURE A
27 SEPARATE FINANCING ORDER FOR EACH ISSUANCE OF CO-EIA BONDS OR

1 FOR EACH SCHEDULED PHASE OF THE PREVIOUSLY APPROVED RETIREMENT
2 OF ELECTRIC GENERATING FACILITIES APPROVED IN THE FINANCING ORDER.

3 (g) INCLUDE A FORMULA-BASED ADJUSTMENT MECHANISM FOR
4 MAKING EXPEDITIOUS PERIODIC ADJUSTMENTS IN THE CO-EIA CHARGES
5 THAT CUSTOMERS ARE REQUIRED TO PAY PURSUANT TO THE FINANCING
6 ORDER AND FOR MAKING ANY ADJUSTMENTS THAT ARE NECESSARY TO
7 CORRECT FOR ANY OVER COLLECTION OR UNDER COLLECTION OF THE
8 CO-EIA CHARGES IN PAST PERIODS OR TO OTHERWISE GUARANTEE THE
9 TIMELY PAYMENT OF CO-EIA BONDS AND FINANCING COSTS AND OTHER
10 REQUIRED AMOUNTS AND CHARGES PAYABLE IN CONNECTION WITH
11 CO-EIA BONDS;

12 (h) INCLUDE ANY ADDITIONAL FINDINGS OR CONCLUSIONS DEEMED
13 APPROPRIATE BY THE COMMISSION;

14 (i) SPECIFY THE DEGREE OF FLEXIBILITY AFFORDED TO THE
15 ELECTRIC UTILITY IN ESTABLISHING THE TERMS AND CONDITIONS OF THE
16 CO-EIA BONDS, INCLUDING, BUT NOT LIMITED TO, REPAYMENT
17 SCHEDULES, EXPECTED INTEREST RATES, AND OTHER FINANCING COSTS;

18 (j) SPECIFY THE TIMING OF ACTIONS REQUIRED BY THE ORDER SO
19 THAT:

20 (I) THE CO-EIA BONDS ARE ISSUED AS SOON AS FEASIBLE
21 FOLLOWING THE ISSUANCE OF THE FINANCING ORDER, INDEPENDENT OF
22 THE SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
23 GENERATING FACILITY;

24 (II) THE ENERGY ASSISTANCE FUNDS ARE TRANSFERRED TO THE
25 AUTHORITY AS SOON AS FEASIBLE, BUT NO LATER THAN THE EARLIER OF
26 THE DATE ON WHICH THE ELECTRIC GENERATING FACILITY CEASES
27 OPERATION; AND

1 (III) THE APPLICANT ELECTRIC UTILITY FILES TO REDUCE ITS RATES
2 AS REQUIRED IN SUBSECTION (4) OF THIS SECTION SIMULTANEOUSLY WITH
3 THE INCEPTION OF THE CO-EIA CHARGES AND INDEPENDENTLY OF THE
4 SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
5 GENERATING FACILITY; AND

6 (k) SPECIFY A FUTURE RATEMAKING PROCESS TO RECONCILE ANY
7 DIFFERENCE BETWEEN THE PROJECTED PRETAX COSTS INCLUDED IN THE
8 AMOUNT FINANCED BY CO-EIA BONDS AND THE FINAL ACTUAL PRETAX
9 COSTS INCURRED BY THE ELECTRIC UTILITY IN RETIRING THE ELECTRIC
10 GENERATING FACILITY. THE RECONCILIATION MAY AFFECT THE ELECTRIC
11 UTILITY'S BASE RATES OR ANY RIDER ADOPTED PURSUANT TO SUBSECTION
12 (4) OF THIS SECTION, BUT SHALL NOT AFFECT THE AMOUNT OF THE BONDS
13 OR THE ASSOCIATED CO-EIA CHARGES PAID BY CUSTOMERS.

14 (3) A FINANCING ORDER ISSUED TO AN ELECTRIC UTILITY MUST
15 PERMIT AND MAY REQUIRE THE CREATION OF AN ELECTRIC UTILITY'S
16 CO-EIA PROPERTY PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION TO
17 BE CONDITIONED UPON, AND SIMULTANEOUS WITH, THE SALE OR OTHER
18 TRANSFER OF THE CO-EIA PROPERTY TO AN ASSIGNEE AND THE PLEDGE
19 OF THE CO-EIA PROPERTY TO SECURE CO-EIA BONDS.

20 (4) A FINANCING ORDER SHALL REQUIRE THE APPLICANT ELECTRIC
21 UTILITY, SIMULTANEOUSLY WITH THE INCEPTION OF THE COLLECTION OF
22 CO-EIA CHARGES, TO REDUCE ITS RATES THROUGH A REDUCTION IN BASE
23 RATES OR BY A NEGATIVE RIDER ON CUSTOMER BILLS IN AN AMOUNT
24 EQUAL TO THE REVENUE REQUIREMENT ASSOCIATED WITH THE UTILITY
25 ASSETS BEING FINANCED BY CO-EIA BONDS.

26 **40-41-106. Effect of financing order.** (1) A FINANCING ORDER
27 REMAINS IN EFFECT UNTIL THE CO-EIA BONDS ISSUED AS AUTHORIZED BY

1 THE FINANCING ORDER HAVE BEEN PAID IN FULL AND ALL FINANCING
2 COSTS RELATING TO THE CO-EIA BONDS HAVE BEEN PAID IN FULL.

3 (2) A FINANCING ORDER REMAINS IN EFFECT AND UNABATED
4 NOTWITHSTANDING THE BANKRUPTCY, REORGANIZATION, OR INSOLVENCY
5 OF THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES OR
6 ANY AFFILIATE OF THE ELECTRIC UTILITY OR SUCCESSOR ENTITY OR
7 ASSIGNEE.

8 (3) A FINANCING ORDER IS IRREVOCABLE, AND THE COMMISSION
9 MAY NOT REDUCE, IMPAIR, POSTPONE, OR TERMINATE CO-EIA CHARGES
10 APPROVED IN A FINANCING ORDER OR IMPAIR CO-EIA PROPERTY OR THE
11 COLLECTION OR RECOVERY OF CO-EIA REVENUE.

12 (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, UPON ITS
13 OWN MOTION OR AT THE REQUEST OF AN ELECTRIC UTILITY OR ANY OTHER
14 PERSON, THE COMMISSION MAY COMMENCE A PROCEEDING AND ISSUE A
15 SUBSEQUENT FINANCING ORDER THAT PROVIDES FOR REFINANCING,
16 RETIRING, OR REFUNDING CO-EIA BONDS ISSUED PURSUANT TO THE
17 ORIGINAL FINANCING ORDER IF:

18 (a) THE COMMISSION MAKES ALL OF THE FINDINGS SPECIFIED IN
19 SECTION 40-41-105 (1) WITH RESPECT TO THE SUBSEQUENT FINANCING
20 ORDER; AND

21 (b) THE MODIFICATION PROVIDED FOR IN THE SUBSEQUENT
22 FINANCING ORDER DOES NOT IMPAIR IN ANY WAY THE COVENANTS AND
23 TERMS OF THE CO-EIA BONDS TO BE REFINANCED, RETIRED, OR
24 REFUNDED.

25 **40-41-107. Effect on commission jurisdiction.** (1) EXCEPT AS
26 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, IF THE
27 COMMISSION ISSUES A FINANCING ORDER TO AN ELECTRIC UTILITY, THE

1 COMMISSION SHALL NOT, IN EXERCISING ITS POWERS AND CARRYING OUT
2 ITS DUTIES PURSUANT TO THIS ARTICLE 41:

3 (a) CONSIDER THE CO-EIA BONDS ISSUED PURSUANT TO THE
4 FINANCING ORDER TO BE DEBT OF THE ELECTRIC UTILITY OTHER THAN FOR
5 INCOME TAX PURPOSES UNLESS IT IS NECESSARY TO CONSIDER THE
6 CO-EIA BONDS TO BE SUCH DEBT TO ACHIEVE CONSISTENCY WITH
7 PREVAILING UTILITY DEBT RATING METHODOLOGIES;

8 (b) CONSIDER THE CO-EIA CHARGES PAID UNDER THE FINANCING
9 ORDER TO BE REVENUE OF THE ELECTRIC UTILITY;

10 (c) CONSIDER THE CO-EIA COSTS OR FINANCING COSTS SPECIFIED
11 IN THE FINANCING ORDER TO BE THE REGULATED COSTS OR ASSETS OF THE
12 ELECTRIC UTILITY; OR

13 (d) DETERMINE ANY PRUDENT ACTION TAKEN BY AN ELECTRIC
14 UTILITY THAT IS CONSISTENT WITH THE FINANCING ORDER TO BE UNJUST
15 OR UNREASONABLE.

16 (2) NOTHING IN SUBSECTION (1) OF THIS SECTION:

17 (a) AFFECTS THE AUTHORITY OF THE COMMISSION TO APPLY OR
18 MODIFY ANY BILLING MECHANISM DESIGNED TO RECOVER CO-EIA
19 CHARGES;

20 (b) PREVENTS OR PRECLUDES THE COMMISSION FROM
21 INVESTIGATING THE COMPLIANCE OF AN ELECTRIC UTILITY WITH THE
22 TERMS AND CONDITIONS OF A FINANCING ORDER AND REQUIRING
23 COMPLIANCE WITH THE FINANCING ORDER; OR

24 (c) PREVENTS OR PRECLUDES THE COMMISSION FROM IMPOSING
25 REGULATORY SANCTIONS AGAINST A REGULATED ELECTRIC UTILITY FOR
26 FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF A FINANCING
27 ORDER OR THE REQUIREMENTS OF THIS ARTICLE 41.

1 (3) THE COMMISSION MAY NOT REFUSE TO ALLOW THE RECOVERY
2 OF ANY COSTS ASSOCIATED WITH THE RETIREMENT OF ELECTRIC
3 GENERATING FACILITIES BY AN ELECTRIC UTILITY SOLELY BECAUSE THE
4 ELECTRIC UTILITY HAS ELECTED TO FINANCE THOSE ACTIVITIES THROUGH
5 A FINANCING MECHANISM OTHER THAN CO-EIA BONDS.

6 **40-41-108. Electric utility customer protection - legislative**
7 **declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
8 THAT:

9 (a) THE USE OF CO-EIA BOND FINANCING WILL BRING
10 SUBSTANTIAL BENEFITS TO COLORADO ELECTRIC UTILITY CUSTOMERS AND
11 TO COLORADO ELECTRIC GENERATING FACILITY WORKERS AND COLORADO
12 COMMUNITIES THAT ARE DIRECTLY IMPACTED BY THE RETIREMENT OF
13 ELECTRIC GENERATING FACILITIES; AND

14 (b) BECAUSE THE COMMISSION'S APPROVAL OF A FINANCING ORDER
15 IS IRREVOCABLE, TYPICALLY ADDRESSES VERY LARGE AMOUNTS OF
16 FINANCING UNDERTAKEN PURSUANT TO THIS ARTICLE 41, AND IS NOT
17 REVIEWABLE BY FUTURE COMMISSIONS, IN ADDITION TO ITS OTHER
18 POWERS AND DUTIES, THE COMMISSION HAS THE DUTY TO PERFORM AND
19 AUTHORITY REQUIRED TO PERFORM COMPREHENSIVE DUE DILIGENCE IN ITS
20 EVALUATION OF AN APPLICATION FOR A FINANCING ORDER AND HAS THE
21 DUTY AND AUTHORITY TO OVERSEE THE PROCESS USED TO STRUCTURE,
22 MARKET, AND PRICE CO-EIA BONDS.

23 (2) IN ADDITION TO ANY OTHER AUTHORITY OF THE COMMISSION:

24 (a) THE COMMISSION MAY ATTACH SUCH CONDITIONS TO THE
25 APPROVAL OF A FINANCING ORDER AS THE COMMISSION DEEMS
26 APPROPRIATE TO MAXIMIZE THE FINANCIAL BENEFITS OR MINIMIZE THE
27 FINANCIAL RISKS OF THE TRANSACTION TO CUSTOMERS AND TO DIRECTLY

1 IMPACTED COLORADO WORKERS AND COMMUNITIES;

2 (b) THE COMMISSION MAY SPECIFY DETAILS OF THE PROCESS USED
3 TO STRUCTURE, MARKET, AND PRICE CO-EIA BONDS, INCLUDING THE
4 SELECTION OF THE UNDERWRITER OR UNDERWRITERS;

5 (c) THE COMMISSION SHALL REVIEW AND DETERMINE THE
6 REASONABLENESS OF ALL PROPOSED UP-FRONT AND ONGOING FINANCING
7 COSTS; AND

8 (d) THE COMMISSION SHALL ENSURE THAT THE STRUCTURING,
9 MARKETING, AND PRICING OF CO-EIA BONDS MAXIMIZES NET PRESENT
10 VALUE CUSTOMER SAVINGS, CONSISTENT WITH MARKET CONDITIONS AND
11 THE TERMS OF THE FINANCING ORDER.

12 (3) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ISSUANCE OF
13 CO-EIA BONDS, THE APPLICANT ELECTRIC UTILITY SHALL FILE WITH THE
14 COMMISSION INFORMATION REGARDING THE ACTUAL UP-FRONT AND
15 ONGOING FINANCING COSTS OF THE CO-EIA BONDS. THE COMMISSION
16 SHALL REVIEW THE PRUDENCE OF THE ELECTRIC UTILITY'S ACTION TO
17 DETERMINE WHETHER THE COSTS RESULTED IN THE LOWEST OVERALL
18 COSTS THAT WERE REASONABLY CONSISTENT WITH BOTH MARKET
19 CONDITIONS AT THE TIME OF THE ISSUANCE AND THE TERMS OF THE
20 FINANCING ORDER. IF THE COMMISSION DETERMINES THAT THE ELECTRIC
21 UTILITY'S ACTIONS WERE NOT PRUDENT OR WERE INCONSISTENT WITH THE
22 FINANCING ORDER, THE COMMISSION MAY APPLY ANY REMEDIES THAT ARE
23 AVAILABLE TO IT UNDER ARTICLE 7 OF THIS TITLE 40; EXCEPT THAT THE
24 COMMISSION SHALL NOT APPLY ANY REMEDY THAT HAS THE EFFECT,
25 DIRECTLY OR INDIRECTLY, OF IMPAIRING THE SECURITY FOR THE CO-EIA
26 BONDS.

27 (4) IN PERFORMING ITS RESPONSIBILITIES UNDER THIS ARTICLE 41,

1 THE COMMISSION SHALL ENGAGE OUTSIDE CONSULTANTS AND COUNSEL
2 EXPERIENCED IN SECURITIZED ELECTRIC UTILITY RATEPAYER-BACKED
3 BOND FINANCING SIMILAR TO CO-EIA BONDS, AND THE EXPENSES
4 ASSOCIATED WITH THE ENGAGEMENT SHALL BE INCLUDED AS FINANCING
5 COSTS AND INCLUDED IN THE CO-EIA CHARGE, ARE NOT AN OBLIGATION
6 OF THE STATE, AND ARE ASSIGNED SOLELY TO THE TRANSACTION. IN
7 ADDITION, EXPENSES INCURRED BY THE COMMISSION TO HIRE AND
8 COMPENSATE ADDITIONAL TEMPORARY STAFF NEEDED TO PERFORM ITS
9 RESPONSIBILITIES UNDER THIS ARTICLE 41 SHALL BE INCLUDED AS
10 FINANCING COSTS AND INCLUDED IN THE CO-EIA CHARGE.

11 (5) IF AN ELECTRIC UTILITY'S APPLICATION FOR A FINANCING
12 ORDER IS DENIED OR WITHDRAWN OR FOR ANY REASON NO CO-EIA BONDS
13 ARE ISSUED, THE COMMISSION'S COSTS OF RETAINING EXPERT
14 CONSULTANTS, AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION,
15 SHALL BE PAID BY THE APPLICANT ELECTRIC UTILITY AND SHALL BE
16 CONSIDERED BY THE COMMISSION AS A PRUDENT DEFERRED EXPENSE FOR
17 RECOVERY IN THE ELECTRIC UTILITY'S FUTURE RATES.

18 **40-41-109. Judicial review of financing orders.** A FINANCING
19 ORDER IS A FINAL ORDER OF THE COMMISSION. NOTWITHSTANDING
20 SECTION 40-6-115 (5) SPECIFYING PROPER VENUE FOR PETITION FILINGS,
21 A PARTY AGGRIEVED BY THE ISSUANCE OF A FINANCING ORDER MAY
22 PETITION FOR SUSPENSION AND REVIEW OF THE FINANCING ORDER ONLY IN
23 THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER. IN THE CASE
24 OF ANY PETITION FOR SUSPENSION AND REVIEW, THE COURT SHALL
25 PROCEED TO HEAR AND DETERMINE THE ACTION AS EXPEDITIOUSLY AS
26 PRACTICABLE AND SHALL GIVE THE ACTION PRECEDENCE OVER OTHER
27 MATTERS NOT ACCORDED SIMILAR PRECEDENCE BY LAW.

1 **40-41-110. Electric utilities - duties.** (1) THE ELECTRIC BILLS OF
2 AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND
3 CAUSED CO-EIA BONDS TO BE ISSUED:

4 (a) MUST EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES
5 ON THE BILL REPRESENTS CO-EIA CHARGES APPROVED IN A FINANCING
6 ORDER ISSUED TO THE ELECTRIC UTILITY AND, IF THE CO-EIA PROPERTY
7 HAS BEEN TRANSFERRED TO AN ASSIGNEE, MUST INCLUDE A STATEMENT
8 THAT THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO CO-EIA CHARGES
9 AND THAT THE ELECTRIC UTILITY OR OTHER ENTITY, IF APPLICABLE, IS
10 ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE;

11 (b) MUST INCLUDE THE CO-EIA CHARGE ON EACH CUSTOMER'S
12 BILL AS A SEPARATE LINE ITEM TITLED "ENERGY IMPACT ASSISTANCE
13 CHARGE" AND MAY INCLUDE BOTH THE RATE AND THE AMOUNT OF THE
14 CHARGE ON EACH BILL. THE FAILURE OF AN ELECTRIC UTILITY TO COMPLY
15 WITH THIS SUBSECTION (1) DOES NOT INVALIDATE, IMPAIR, OR AFFECT ANY
16 FINANCING ORDER, CO-EIA PROPERTY, CO-EIA CHARGE, OR CO-EIA
17 BONDS, BUT DOES SUBJECT THE ELECTRIC UTILITY TO PENALTIES UNDER
18 APPLICABLE COMMISSION RULES; AND

19 (c) MUST EXPLAIN TO CUSTOMERS IN AN ANNUAL FILING WITH THE
20 COMMISSION THE RATE IMPACT THAT FINANCING THE RETIREMENT OF
21 ELECTRIC GENERATING FACILITIES HAS HAD ON CUSTOMER RATES.

22 (2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER
23 AND CAUSED CO-EIA BONDS TO BE ISSUED MUST DEMONSTRATE IN AN
24 ANNUAL FILING WITH THE COMMISSION THAT CO-EIA REVENUES ARE
25 APPLIED SOLELY TO THE REPAYMENT OF CO-EIA BONDS AND OTHER
26 FINANCING COSTS.

27 **40-41-111. CO-EIA property.** (1) CO-EIA PROPERTY THAT IS

1 DESCRIBED IN A FINANCING ORDER CONSTITUTES AN EXISTING PRESENT
2 PROPERTY RIGHT OR INTEREST IN AN EXISTING PRESENT PROPERTY RIGHT
3 EVEN THOUGH THE IMPOSITION AND COLLECTION OF CO-EIA CHARGES
4 DEPENDS ON THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER IS
5 ISSUED PERFORMING ITS SERVICING FUNCTIONS RELATING TO THE
6 COLLECTION OF CO-EIA CHARGES AND ON FUTURE ELECTRICITY
7 CONSUMPTION. THE PROPERTY RIGHT OR INTEREST EXISTS REGARDLESS OF
8 WHETHER THE REVENUES OR PROCEEDS ARISING FROM THE CO-EIA
9 PROPERTY HAVE BEEN BILLED, HAVE ACCRUED, OR HAVE BEEN COLLECTED
10 AND NOTWITHSTANDING THE FACT THAT THE VALUE OR AMOUNT OF THE
11 PROPERTY RIGHT OR INTEREST IS DEPENDENT ON THE FUTURE PROVISION
12 OF SERVICE TO CUSTOMERS BY THE ELECTRIC UTILITY OR A SUCCESSOR OR
13 ASSIGNEE OF THE ELECTRIC UTILITY.

14 (2) CO-EIA PROPERTY DESCRIBED IN A FINANCING ORDER EXISTS
15 UNTIL ALL CO-EIA BONDS ISSUED PURSUANT TO THE FINANCING ORDER
16 ARE PAID IN FULL AND ALL FINANCING COSTS AND OTHER COSTS OF THE
17 CO-EIA BONDS HAVE BEEN RECOVERED IN FULL.

18 (3) ALL OR ANY PORTION OF CO-EIA PROPERTY DESCRIBED IN A
19 FINANCING ORDER ISSUED TO AN ELECTRIC UTILITY MAY BE TRANSFERRED,
20 SOLD, CONVEYED, OR ASSIGNED TO A SUCCESSOR OR ASSIGNEE THAT IS
21 WHOLLY OWNED, DIRECTLY OR INDIRECTLY, BY THE ELECTRIC UTILITY
22 AND IS CREATED FOR THE LIMITED PURPOSE OF ACQUIRING, OWNING, OR
23 ADMINISTERING CO-EIA PROPERTY OR ISSUING CO-EIA BONDS AS
24 AUTHORIZED BY THE FINANCING ORDER. ALL OR ANY PORTION OF CO-EIA
25 PROPERTY MAY BE PLEDGED TO SECURE CO-EIA BONDS ISSUED PURSUANT
26 TO A FINANCING ORDER, AMOUNTS PAYABLE TO FINANCING PARTIES AND
27 TO COUNTERPARTIES UNDER ANY ANCILLARY AGREEMENTS, AND OTHER

1 FINANCING COSTS. EACH TRANSFER, SALE, CONVEYANCE, ASSIGNMENT, OR
2 PLEDGE BY AN ELECTRIC UTILITY OR AN AFFILIATE OF AN ELECTRIC
3 UTILITY IS A TRANSACTION IN THE ORDINARY COURSE OF BUSINESS.

4 (4) IF AN ELECTRIC UTILITY DEFAULTS ON ANY REQUIRED PAYMENT
5 OF CHARGES ARISING FROM CO-EIA PROPERTY DESCRIBED IN A FINANCING
6 ORDER, A COURT, UPON APPLICATION BY AN INTERESTED PARTY AND
7 WITHOUT LIMITING ANY OTHER REMEDIES AVAILABLE TO THE APPLYING
8 PARTY, SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE
9 REVENUE ARISING FROM THE CO-EIA PROPERTY TO THE FINANCING
10 PARTIES. ANY SUCH FINANCING ORDER REMAINS IN FULL FORCE AND
11 EFFECT NOTWITHSTANDING ANY REORGANIZATION, BANKRUPTCY, OR
12 OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE ELECTRIC
13 UTILITY OR ITS SUCCESSORS OR ASSIGNEES.

14 (5) THE INTEREST OF A TRANSFEREE, PURCHASER, ACQUIRER,
15 ASSIGNEE, OR PLEDGEE IN CO-EIA PROPERTY SPECIFIED IN A FINANCING
16 ORDER ISSUED TO AN ELECTRIC UTILITY, AND IN THE REVENUE AND
17 COLLECTIONS ARISING FROM THAT PROPERTY, IS NOT SUBJECT TO SETOFF,
18 COUNTERCLAIM, SURCHARGE, OR DEFENSE BY THE ELECTRIC UTILITY OR
19 ANY OTHER PERSON OR IN CONNECTION WITH THE REORGANIZATION,
20 BANKRUPTCY, OR OTHER INSOLVENCY OF THE ELECTRIC UTILITY OR ANY
21 OTHER ENTITY.

22 (6) A SUCCESSOR TO AN ELECTRIC UTILITY, WHETHER PURSUANT
23 TO ANY REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY
24 PROCEEDING OR WHETHER PURSUANT TO ANY MERGER OR ACQUISITION,
25 SALE, OTHER BUSINESS COMBINATION, OR TRANSFER BY OPERATION OF
26 LAW, AS A RESULT OF ELECTRIC UTILITY RESTRUCTURING OR OTHERWISE,
27 MUST PERFORM AND SATISFY ALL OBLIGATIONS OF, AND HAS THE SAME

1 DUTIES AND RIGHTS UNDER A FINANCING ORDER AS THE ELECTRIC UTILITY
2 TO WHICH THE FINANCING ORDER APPLIES AND SHALL PERFORM THE
3 DUTIES AND EXERCISE THE RIGHTS IN THE SAME MANNER AND TO THE
4 SAME EXTENT AS THE ELECTRIC UTILITY, INCLUDING COLLECTING AND
5 PAYING TO ANY PERSON ENTITLED TO RECEIVE THEM THE REVENUES,
6 COLLECTIONS, PAYMENTS, OR PROCEEDS OF CO-EIA PROPERTY DESCRIBED
7 IN THE FINANCING ORDER.

8 **40-41-112. CO-EIA bonds - legal investments - not public debt**
9 **- pledge of state.** (1) BANKS, TRUST COMPANIES, SAVINGS AND LOAN
10 ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS,
11 GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST
12 ANY MONEY WITHIN THEIR CONTROL IN CO-EIA BONDS. PUBLIC ENTITIES,
13 AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC FUNDS IN
14 CO-EIA BONDS ONLY IF THE CO-EIA BONDS SATISFY THE INVESTMENT
15 REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24.

16 (2) CO-EIA BONDS ISSUED AS AUTHORIZED BY A FINANCING
17 ORDER ARE NOT DEBT OF OR A PLEDGE OF THE FAITH AND CREDIT OR
18 TAXING POWER OF THE STATE, ANY AGENCY OF THE STATE, OR ANY
19 COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE.
20 HOLDERS OF CO-EIA BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY
21 THE STATE OR BY ANY COUNTY, MUNICIPALITY, OR OTHER POLITICAL
22 SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR
23 INTEREST ON CO-EIA BONDS. THE ISSUANCE OF CO-EIA BONDS DOES NOT
24 DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR A
25 POLITICAL SUBDIVISION OF THE STATE TO LEVY ANY TAX OR MAKE ANY
26 APPROPRIATION FOR PAYMENT OF PRINCIPAL OR INTEREST ON THE CO-EIA
27 BONDS.

1 (3) (a) THE STATE PLEDGES TO AND AGREES WITH HOLDERS OF
2 CO-EIA BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES THAT THE
3 STATE WILL NOT:

4 (I) TAKE OR PERMIT ANY ACTION THAT IMPAIRS THE VALUE OF
5 CO-EIA PROPERTY; OR

6 (II) REDUCE, ALTER, OR IMPAIR CO-EIA CHARGES THAT ARE
7 IMPOSED, COLLECTED, AND REMITTED FOR THE BENEFIT OF HOLDERS OF
8 CO-EIA BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES, UNTIL ANY
9 PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM PAYABLE ON CO-EIA
10 BONDS, ALL FINANCING COSTS, AND ALL AMOUNTS TO BE PAID TO AN
11 ASSIGNEE OR FINANCING PARTY UNDER AN ANCILLARY AGREEMENT ARE
12 PAID IN FULL.

13 (b) A PERSON WHO ISSUES CO-EIA BONDS MAY INCLUDE THE
14 PLEDGE SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION IN THE CO-EIA
15 BONDS, ANCILLARY AGREEMENTS, AND DOCUMENTATION RELATED TO THE
16 ISSUANCE AND MARKETING OF THE CO-EIA BONDS.

17 **40-41-113. Assignee or financing party not automatically**
18 **subject to commission regulation.** AN ELECTRIC UTILITY, ASSIGNEE, OR
19 FINANCING PARTY THAT IS NOT ALREADY REGULATED BY THE COMMISSION
20 DOES NOT BECOME SUBJECT TO COMMISSION REGULATION SOLELY AS A
21 RESULT OF ENGAGING IN ANY TRANSACTION AUTHORIZED BY OR
22 DESCRIBED IN THIS ARTICLE 41.

23 **40-41-114. Effect of other laws and judicial decisions.** (1) IF
24 ANY PROVISION OF THIS ARTICLE 41 CONFLICTS WITH ANY OTHER LAW
25 REGARDING THE ATTACHMENT, ASSIGNMENT, PERFECTION, EFFECT OF
26 PERFECTION, OR PRIORITY OF ANY SECURITY INTEREST IN OR TRANSFER OF
27 CO-EIA PROPERTY, THE PROVISION OF THIS ARTICLE 41 GOVERNS TO THE

1 EXTENT OF THE CONFLICT.

2 (2) EFFECTIVE ON THE DATE THAT CO-EIA BONDS ARE FIRST
3 ISSUED, IF ANY PROVISION OF THIS ARTICLE 41 IS HELD TO BE INVALID OR
4 IS INVALIDATED, SUPERSEDED, REPLACED, REPEALED, OR EXPIRES, THAT
5 OCCURRENCE DOES NOT AFFECT ANY ACTION ALLOWED UNDER THIS
6 ARTICLE 41 THAT WAS LAWFULLY TAKEN BY THE COMMISSION, AN
7 ELECTRIC UTILITY, AN ASSIGNEE, A COLLECTION AGENT, A FINANCING
8 PARTY, A BONDHOLDER, OR A PARTY TO AN ANCILLARY AGREEMENT
9 BEFORE THE OCCURRENCE, AND ANY SUCH ACTION REMAINS IN FULL FORCE
10 AND EFFECT.

11 (3) NOTHING IN SUBSECTION (1) OR (2) OF THIS SECTION
12 PRECLUDES AN ELECTRIC UTILITY FOR WHICH THE COMMISSION HAS
13 INITIALLY ISSUED A FINANCING ORDER FROM APPLYING TO THE
14 COMMISSION FOR:

15 (a) A SUBSEQUENT FINANCING ORDER AMENDING THE FINANCING
16 ORDER AS AUTHORIZED BY SECTION 40-41-106 (4); OR

17 (b) APPROVAL OF THE ISSUANCE OF CO-EIA BONDS TO REFUND
18 ALL OR A PORTION OF AN OUTSTANDING SERIES OF CO-EIA BONDS.

19 **40-41-115. Choice of law.** THE LAWS OF THE STATE GOVERN THE
20 VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY, AND
21 EXERCISE OF REMEDIES WITH RESPECT TO THE TRANSFER OF AN INTEREST
22 OR RIGHT OR CREATION OF A SECURITY INTEREST IN ANY CO-EIA
23 PROPERTY, CO-EIA CHARGE, OR FINANCING ORDER.

24 **40-41-116. Security interests in CO-EIA property.** (1) THE
25 CREATION, PERFECTION, AND ENFORCEMENT OF ANY SECURITY INTEREST
26 IN CO-EIA PROPERTY TO SECURE THE REPAYMENT OF THE PRINCIPAL OF
27 AND INTEREST ON CO-EIA BONDS, AMOUNTS PAYABLE UNDER ANY

1 ANCILLARY AGREEMENT, AND OTHER FINANCING COSTS ARE GOVERNED BY
2 THIS SECTION AND NOT BY THE "UNIFORM COMMERCIAL CODE", TITLE 4.

3 (2) THE DESCRIPTION OR INDICATION OF CO-EIA PROPERTY IN A
4 TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS
5 SUFFICIENT ONLY IF THE DESCRIPTION OR INDICATION REFERS TO THIS
6 ARTICLE 41 AND THE FINANCING ORDER CREATING THE CO-EIA
7 PROPERTY.

8 (3) (a) A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED,
9 VALID, AND BINDING AS SOON AS ALL OF THE FOLLOWING EVENTS HAVE
10 OCCURRED:

11 (I) THE FINANCING ORDER THAT DESCRIBES THE CO-EIA
12 PROPERTY IS ISSUED;

13 (II) A SECURITY AGREEMENT IS EXECUTED AND DELIVERED; AND

14 (III) VALUE IS RECEIVED FOR THE CO-EIA BONDS.

15 (b) ONCE A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED
16 UNDER SUBSECTION (3)(a) OF THIS SECTION, THE SECURITY INTEREST
17 ATTACHES WITHOUT ANY PHYSICAL DELIVERY OF COLLATERAL OR ANY
18 OTHER ACT. THE LIEN OF THE SECURITY INTEREST IS VALID, BINDING, AND
19 PERFECTED AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT,
20 CONTRACT OR OTHERWISE AGAINST THE PERSON GRANTING THE SECURITY
21 INTEREST, REGARDLESS OF WHETHER SUCH PARTIES HAVE NOTICE OF THE
22 LIEN, UPON THE FILING OF A FINANCING STATEMENT WITH THE SECRETARY
23 OF STATE. THE SECRETARY OF STATE SHALL MAINTAIN A FINANCING
24 STATEMENT FILED PURSUANT TO THIS SUBSECTION (3)(b) IN THE SAME
25 MANNER IN WHICH THE SECRETARY MAINTAINS AND IN THE SAME
26 RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
27 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE

1 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
2 (3)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF
3 FINANCING STATEMENTS.

4 (4) A SECURITY INTEREST IN CO-EIA PROPERTY IS A
5 CONTINUOUSLY PERFECTED SECURITY INTEREST AND HAS PRIORITY OVER
6 ANY OTHER LIEN, CREATED BY OPERATION OF LAW OR OTHERWISE, WHICH
7 MAY SUBSEQUENTLY ATTACH TO THE CO-EIA PROPERTY UNLESS THE
8 HOLDER OF THE SECURITY INTEREST HAS AGREED IN WRITING OTHERWISE.

9 (5) THE PRIORITY OF A SECURITY INTEREST IN CO-EIA PROPERTY
10 IS NOT AFFECTED BY THE COMMINGLING OF CO-EIA PROPERTY OR
11 CO-EIA REVENUE WITH OTHER MONEY. AN ASSIGNEE, BONDHOLDER, OR
12 FINANCING PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT
13 OF ALL CO-EIA PROPERTY OR CO-EIA REVENUE THAT IS PLEDGED FOR
14 THE PAYMENT OF CO-EIA BONDS EVEN IF THE CO-EIA PROPERTY OR
15 CO-EIA REVENUE IS DEPOSITED IN A CASH OR DEPOSIT ACCOUNT OF THE
16 ELECTRIC UTILITY IN WHICH THE CO-EIA REVENUE IS COMMINGLED WITH
17 OTHER MONEY, AND ANY OTHER SECURITY INTEREST THAT APPLIES TO THE
18 OTHER MONEY DOES NOT APPLY TO THE CO-EIA REVENUE.

19 (6) NEITHER A SUBSEQUENT ORDER OF THE COMMISSION
20 AMENDING A FINANCING ORDER AS AUTHORIZED BY SECTION 40-41-106
21 (4), NOR APPLICATION OF AN ADJUSTMENT MECHANISM AS AUTHORIZED BY
22 SECTION 40-41-105 (2)(g), AFFECTS THE VALIDITY, PERFECTION, OR
23 PRIORITY OF A SECURITY INTEREST IN OR TRANSFER OF CO-EIA PROPERTY.

24 **40-41-117. Sales of CO-EIA property.** (1) (a) A SALE,
25 ASSIGNMENT, OR TRANSFER OF CO-EIA PROPERTY IS AN ABSOLUTE
26 TRANSFER AND TRUE SALE OF, AND NOT A PLEDGE OF OR SECURED
27 TRANSACTION RELATING TO, THE SELLER'S RIGHT, TITLE AND INTEREST IN,

1 TO, AND UNDER THE CO-EIA PROPERTY IF THE DOCUMENTS GOVERNING
2 THE TRANSACTION EXPRESSLY STATE THAT THE TRANSACTION IS A SALE
3 OR OTHER ABSOLUTE TRANSFER. A TRANSFER OF AN INTEREST IN CO-EIA
4 PROPERTY MAY BE CREATED ONLY WHEN ALL OF THE FOLLOWING HAVE
5 OCCURRED:

6 (I) THE FINANCING ORDER CREATING AND DESCRIBING THE
7 CO-EIA PROPERTY HAS BECOME EFFECTIVE;

8 (II) THE DOCUMENTS EVIDENCING THE TRANSFER OF THE CO-EIA
9 PROPERTY HAVE BEEN EXECUTED AND DELIVERED TO THE ASSIGNEE; AND

10 (III) VALUE IS RECEIVED.

11 (b) UPON THE FILING OF A FINANCING STATEMENT WITH THE
12 SECRETARY OF STATE, A TRANSFER OF AN INTEREST IN CO-EIA PROPERTY
13 IS PERFECTED AGAINST ALL THIRD PERSONS, INCLUDING ANY JUDICIAL LIEN
14 OR OTHER LIEN CREDITORS OR ANY CLAIMS OF THE SELLER OR CREDITORS
15 OF THE SELLER, OTHER THAN CREDITORS HOLDING A PRIOR SECURITY
16 INTEREST, OWNERSHIP INTEREST, OR ASSIGNMENT IN THE CO-EIA
17 PROPERTY PREVIOUSLY PERFECTED IN ACCORDANCE WITH THIS
18 SUBSECTION (1) OR SECTION 40-41-116. THE SECRETARY OF STATE SHALL
19 MAINTAIN A FINANCING STATEMENT FILED PURSUANT TO THIS SUBSECTION
20 (1)(b) IN THE SAME MANNER IN WHICH THE SECRETARY MAINTAINS AND IN
21 THE SAME RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
22 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
23 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
24 (1)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF
25 FINANCING STATEMENTS.

26 (2) THE CHARACTERIZATION OF A SALE, ASSIGNMENT, OR
27 TRANSFER AS AN ABSOLUTE TRANSFER AND TRUE SALE AND THE

1 CORRESPONDING CHARACTERIZATION OF THE PROPERTY INTEREST OF THE
2 ASSIGNEE IS NOT AFFECTED OR IMPAIRED BY THE EXISTENCE OR
3 OCCURRENCE OF ANY OF THE FOLLOWING:

4 (a) COMMINGLING OF CO-EIA REVENUE WITH OTHER MONEY;

5 (b) THE RETENTION BY THE SELLER OF:

6 (I) A PARTIAL OR RESIDUAL INTEREST, INCLUDING AN EQUITY
7 INTEREST, IN THE CO-EIA PROPERTY, WHETHER DIRECT OR INDIRECT, OR
8 WHETHER SUBORDINATE OR OTHERWISE; OR

9 (II) THE RIGHT TO RECOVER COSTS ASSOCIATED WITH TAXES,
10 FRANCHISE FEES, OR LICENSE FEES IMPOSED ON THE COLLECTION OF
11 CO-EIA REVENUE;

12 (c) ANY RECOURSE THAT THE PURCHASER MAY HAVE AGAINST THE
13 SELLER;

14 (d) ANY INDEMNIFICATION RIGHTS, OBLIGATIONS, OR REPURCHASE
15 RIGHTS MADE OR PROVIDED BY THE SELLER;

16 (e) AN OBLIGATION OF THE SELLER TO COLLECT CO-EIA
17 REVENUES ON BEHALF OF AN ASSIGNEE;

18 (f) THE TREATMENT OF THE SALE, ASSIGNMENT, OR TRANSFER FOR
19 TAX, FINANCIAL REPORTING, OR OTHER PURPOSES;

20 (g) ANY SUBSEQUENT FINANCING ORDER AMENDING A FINANCING
21 ORDER AS AUTHORIZED BY SECTION 40-41-106 (4); OR

22 (h) ANY APPLICATION OF AN ADJUSTMENT MECHANISM AS
23 AUTHORIZED BY SECTION 40-41-105 (2)(g).

24 **40-41-118. Use of CO-EIA bond proceeds by an electric utility**

25 - **definition.** (1) FOR PURPOSES OF THIS SECTION, "LEAST-COST
26 GENERATION RESOURCE" MEANS AN INCREMENTAL SUPPLY-SIDE OR
27 DEMAND-SIDE RESOURCE THAT, WHEN INCLUDED IN AN ELECTRIC UTILITY'S

1 GENERATION PORTFOLIO, PRODUCES THE LOWEST COST AMONG
2 ALTERNATIVE RESOURCES, CONSIDERING BOTH SHORT-TERM AND
3 LONG-TERM COSTS AND ASSESSING THE LIKELIHOOD OF CHANGES IN
4 FUTURE FUEL PRICES AND FUTURE ENVIRONMENTAL REQUIREMENTS,
5 AMONG OTHER CONSIDERATIONS.

6 (2) SUBJECT TO COMMISSION APPROVAL AS REQUIRED BY
7 SUBSECTION (3) OF THIS SECTION, AN ELECTRIC UTILITY MAY EXPEND OR
8 INVEST CO-EIA BOND PROCEEDS, OTHER THAN BOND PROCEEDS REQUIRED
9 BY A FINANCING ORDER TO BE TRANSFERRED TO THE AUTHORITY, IN A
10 MANNER THAT DEMONSTRABLY BENEFITS RATEPAYER INTERESTS, AS
11 FOLLOWS:

12 (a) TO PURCHASE POWER TO REPLACE ELECTRICITY GENERATED BY
13 THE ELECTRIC GENERATING FACILITIES THAT WERE RETIRED IF THE
14 COMMISSION DETERMINES THAT THE PURCHASED POWER IS A LEAST-COST
15 GENERATION RESOURCE AND IS CONSISTENT WITH THE ELECTRIC UTILITY'S
16 APPROVED INTEGRATED RESOURCE PLAN;

17 (b) TO BUILD AND OWN GENERATION FACILITIES THAT ARE
18 LEAST-COST GENERATION RESOURCES, THE ADDITION OF WHICH IS NOT
19 INCONSISTENT WITH THE ELECTRIC UTILITY'S APPROVED INTEGRATED
20 RESOURCE PLAN;

21 (c) TO BUILD, OWN, OR PURCHASE ELECTRICITY STORAGE
22 CAPACITY TO THE EXTENT THAT SUCH INVESTMENT IS EITHER REQUIRED
23 BY LAW OR RULE OR IS NEEDED TO INCREASE THE AMOUNT OF LEAST-COST
24 GENERATION RESOURCES THAT THE ELECTRIC UTILITY IS ABLE TO ADD TO
25 ITS GENERATION PORTFOLIO; AND

26 (d) TO INVEST IN NETWORK MODERNIZATION TO THE EXTENT THAT
27 THE MODERNIZATION IS NECESSARY TO INCREASE THE AMOUNT OF

1 LEAST-COST GENERATION RESOURCES ABLE TO BE ADDED TO THE
2 ELECTRIC UTILITY'S SYSTEM; EXCEPT THAT PROCEEDS MAY NOT BE USED
3 FOR NEW TRANSMISSION FACILITIES.

4 (3) IN CONSIDERING ANY APPLICATION FOR APPROVAL OF THE USE
5 OF CO-EIA BOND PROCEEDS, THE COMMISSION SHALL:

6 (a) USE ITS REGULAR PROCESS FOR CONSIDERATION OF
7 APPLICATIONS; AND

8 (b) FULLY CONSIDER THE PROVISIONS OF SECTION 40-2-123
9 CONCERNING NEW ENERGY TECHNOLOGIES AND FUTURE ENVIRONMENTAL
10 REGULATIONS.

11 PART 2

12 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY

13 **40-41-201. Colorado energy impact assistance authority -**
14 **creation - board - general powers and duties.** (1) THE COLORADO
15 ENERGY IMPACT ASSISTANCE AUTHORITY IS HEREBY CREATED. THE
16 AUTHORITY IS AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE,
17 IS NOT AN AGENCY OF STATE GOVERNMENT, AND IS NOT SUBJECT TO
18 ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD,
19 OR AGENCY OF THE STATE. THE AUTHORITY IS A PUBLIC
20 INSTRUMENTALITY, AND ITS EXERCISE OF ITS POWERS AND EXECUTION OF
21 THE DUTIES AS SPECIFIED IN THIS ARTICLE 41 IS THE PERFORMANCE OF AN
22 ESSENTIAL PUBLIC FUNCTION.

23 (2) (a) THE AUTHORITY IS GOVERNED BY A BOARD OF DIRECTORS,
24 WHICH CONSISTS OF SEVEN DIRECTORS APPOINTED BY THE GOVERNOR AS
25 FOLLOWS:

26 (I) ONE DIRECTOR WHO HAS PROFESSIONAL JOB TRAINING
27 EXPERIENCE;

1 (II) ONE DIRECTOR WHO HAS PROFESSIONAL EXPERIENCE IN RURAL
2 ECONOMIC DEVELOPMENT; AND

3 (III) FIVE MEMBERS APPOINTED WITHOUT OCCUPATIONAL
4 REQUIREMENTS, BUT THE GOVERNOR SHALL STRONGLY CONSIDER
5 APPOINTING A DIRECTOR WHO IS LICENSED TO PRACTICE LAW IN
6 COLORADO, A DIRECTOR WHO HAS PROFESSIONAL FINANCE EXPERIENCE,
7 AND AT LEAST ONE DIRECTOR WHO RESIDES IN AN AREA DIRECTLY
8 IMPACTED BY THE RETIREMENT OF ONE OR MORE ELECTRIC GENERATING
9 FACILITIES.

10 (b) THE GOVERNOR SHALL APPOINT THE INITIAL DIRECTORS OF THE
11 BOARD FOR TERMS BEGINNING JULY 1, 2019. DIRECTORS SERVE FOR
12 FIVE-YEAR TERMS; EXCEPT THAT TWO OF THE DIRECTORS SHALL SERVE
13 INITIAL TERMS OF THREE YEARS. THE GOVERNOR MAY REMOVE A
14 DIRECTOR FOR MISFEASANCE, MALFEASANCE, WILLFUL NEGLECT OF DUTY,
15 OR OTHER CAUSE AFTER NOTICE AND A PUBLIC HEARING UNLESS THE
16 DIRECTOR BEING REMOVED EXPRESSLY WAIVES IN WRITING HIS OR HER
17 RIGHT TO NOTICE AND A PUBLIC HEARING. THE GOVERNOR SHALL FILL ANY
18 VACANCY ON THE BOARD BY THE APPOINTMENT OF A NEW DIRECTOR FOR
19 THE REMAINDER OF THE UNEXPIRED TERM OF THE DIRECTOR WHOSE
20 DEPARTURE CAUSED THE VACANCY.

21 (c) DIRECTORS OF THE BOARD SERVE WITHOUT COMPENSATION
22 BUT ARE ENTITLED TO REIMBURSEMENT FOR ALL NECESSARY EXPENSES
23 INCURRED IN THE PERFORMANCE OF THEIR DUTIES UNDER THIS ARTICLE 41.
24 REIMBURSEMENT OF DIRECTORS MUST BE PAID BY THE AUTHORITY.

25 (3) THE PURPOSE AND MISSION OF THE AUTHORITY IS TO EXPEND
26 MONEY RECEIVED FROM ELECTRIC UTILITIES THAT ARE ISSUING CO-EIA
27 BONDS AS AUTHORIZED BY FINANCING ORDERS AND FROM OTHER SOURCES

1 FOR THE PURPOSE OF MITIGATING DIRECT IMPACTS TO COLORADO
2 WORKERS AND COMMUNITIES RESULTING FROM THE RETIREMENT OF
3 ELECTRIC GENERATING FACILITIES. IN FURTHERANCE OF ITS MISSION, AND
4 IN ADDITION TO ANY OTHER POWERS AND DUTIES GRANTED TO THE
5 AUTHORITY BY THIS ARTICLE 41, THE AUTHORITY HAS THE FOLLOWING
6 GENERAL POWERS:

7 (a) TO HAVE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS,
8 LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND POLITICAL
9 SUBDIVISION OF THE STATE;

10 (b) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION;

11 (c) TO ADOPT, HAVE, AND USE A SEAL AND TO ALTER THE SAME AT
12 ITS PLEASURE;

13 (d) TO ADOPT RULES, BYLAWS, ORDERS, AND RESOLUTIONS
14 NECESSARY FOR THE REGULATION OF ITS AFFAIRS, THE CONDUCT OF ITS
15 BUSINESS, THE EXERCISE OF ITS POWERS, AND THE FULFILLMENT OF ITS
16 DUTIES AND MISSION AS SPECIFIED IN THIS ARTICLE 41;

17 (e) TO FIX THE TIME AND PLACE OF BOARD MEETINGS, WHICH MUST
18 BE HELD AT LEAST FOUR TIMES PER YEAR AND, CONSISTENT WITH THE
19 OPEN MEETINGS LAW UNDER PART 4 OF ARTICLE 6 OF TITLE 24, THE
20 METHOD OF PROVIDING NOTICE OF BOARD MEETINGS. AT LEAST ONE
21 BOARD MEETING PER YEAR MUST BE HELD IN-PERSON, AND OTHER
22 MEETINGS MAY BE HELD USING AUDIO OR VIDEO TELECOMMUNICATIONS
23 TECHNOLOGY.

24 (f) TO PAY ITS REASONABLE AND NECESSARY ADMINISTRATIVE
25 AND OPERATING COSTS FROM ANY REVENUE THAT IT RECEIVES;

26 (g) TO SUE AND BE SUED;

27 (h) TO APPOINT, HIRE, RETAIN, AND TERMINATE OFFICERS AND

1 EMPLOYEES AND CONTRACT WITH AGENTS, ATTORNEYS, ACCOUNTANTS,
2 AUDITORS, FINANCIAL ADVISERS, INVESTMENT BANKERS, AND OTHER
3 PROFESSIONAL CONSULTANTS TO THE EXTENT NEEDED TO EXERCISE ITS
4 POWERS AND PERFORM ITS DUTIES UNDER THIS ARTICLE 41;

5 (i) TO ENTER INTO CONTRACTS AND AGREEMENTS, INCLUDING
6 MEMORANDUMS OF UNDERSTANDING OR INTERGOVERNMENTAL
7 AGREEMENTS WITH ONE OR MORE AGENCIES OR POLITICAL SUBDIVISIONS
8 OF THE STATE OR ANOTHER STATE OR WITH THE FEDERAL GOVERNMENT,
9 NOT INCONSISTENT WITH THIS ARTICLE 41 OR ANY OTHER LAWS OF THE
10 STATE. THE AUTHORITY MAY ENTER INTO A CONTRACT OR AGREEMENT
11 WITH AN APPROPRIATE STATE AGENCY TO HELP THE AUTHORITY
12 ADMINISTER THE DISTRIBUTION OF ITS MONEY AS TRANSITION ASSISTANCE,
13 AND, IF IT DOES SO, THE MONEY ADMINISTERED REMAINS MONEY OF THE
14 AUTHORITY UNTIL IT IS DISTRIBUTED AND IS NOT MONEY OR REVENUE OF
15 THE STATE.

16 (j) TO ACQUIRE SPACE, INCLUDING OFFICE SPACE, EQUIPMENT,
17 SERVICES, SUPPLIES, AND INSURANCE NECESSARY TO EXECUTE ITS
18 POWERS, DUTIES, AND MISSION UNDER THIS ARTICLE 41;

19 (k) TO DEPOSIT ITS MONEY IN ANY BANKING INSTITUTION WITHIN
20 THE STATE OR IN ANY DEPOSITORY AUTHORIZED IN SECTION 24-75-603, TO
21 APPOINT, FOR THE PURPOSE OF MAKING SUCH DEPOSITS, ONE OR MORE
22 PERSONS, WHO SHALL GIVE SURETY BONDS IN SUCH AMOUNTS AND FORM
23 AND FOR SUCH PURPOSES AS THE BOARD REQUIRES, TO ACT AS
24 CUSTODIANS OF ITS MONEY, AND TO OTHERWISE DEPOSIT AND INVEST ITS
25 MONEY AS PERMITTED BY PART 6 OF ARTICLE 75 OF TITLE 24; AND

26 (l) TO HAVE AND EXERCISE ANY OTHER POWERS NECESSARY OR
27 INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES

1 GRANTED IN THIS SECTION.

2 **40-41-202. Mitigation of impacts - specific powers and duties**

3 **of authority - local advisory committees.** (1) IN ORDER TO MITIGATE
4 THE DIRECT IMPACTS TO COLORADO WORKERS AND LOCAL COMMUNITIES
5 RESULTING FROM THE RETIREMENT OF ELECTRIC GENERATING FACILITIES,
6 THE AUTHORITY HAS THE FOLLOWING SPECIFIC POWERS AND DUTIES:

7 (a) TO DETERMINE THE DIRECT IMPACTS THAT THE RETIREMENT OF
8 AN ELECTRIC GENERATING FACILITY OWNED BY AN ELECTRIC UTILITY WILL
9 HAVE ON COLORADO WORKERS AND COMMUNITIES AND TO CONSULT WITH
10 THE DEPARTMENT OF LOCAL AFFAIRS, LOCAL GOVERNMENTS, ELECTRIC
11 UTILITIES, LABOR UNIONS, AND ANY OTHER PERSONS WHO POSSESS
12 RELEVANT INFORMATION IN MAKING ANY SUCH DETERMINATION;

13 (b) TO RECEIVE PAYMENTS FROM ELECTRIC UTILITIES REQUIRED TO
14 MAKE PAYMENTS TO THE AUTHORITY PURSUANT TO THE PROVISIONS OF A
15 FINANCING ORDER AND MAINTAIN A BALANCING ACCOUNT TO HOLD ANY
16 EXCESS MONEY NOT NEEDED IN THE SHORT RUN THAT HAS SEPARATE
17 SUBACCOUNTS FOR EACH ELECTRIC UTILITY THAT MAKES PAYMENTS TO
18 THE AUTHORITY; AND

19 (c) (I) TO PROVIDE TRANSITION ASSISTANCE, WHICH THE
20 AUTHORITY MAY EITHER PROVIDE DIRECTLY OR, EXCEPT AS OTHERWISE
21 PROVIDED IN SUBSECTION (1)(c)(II) OF THIS SECTION, MAY PROVIDE
22 INDIRECTLY BY DISBURSING MONEY TO THE DEPARTMENT OF LOCAL
23 AFFAIRS, TO ANY LOCAL GOVERNMENT OR AGENCY OF LOCAL
24 GOVERNMENT, TO ANY NONPROFIT CORPORATION OR EDUCATIONAL
25 INSTITUTION, TO ANY FOR-PROFIT CORPORATION, TO ANY COMMUNITY
26 DEVELOPMENT AGENCY, OR TO ANY ELIGIBLE APPLICANT, AS DEFINED IN
27 SECTION 8-83-303 (4), FOR ITS USE IN MITIGATING DIRECT IMPACTS TO

1 WORKERS AND LOCAL COMMUNITIES RESULTING FROM THE RETIREMENT
2 OF ELECTRIC GENERATING FACILITIES.

3 (II) THE AUTHORITY SHALL DISBURSE AT LEAST FIFTY PERCENT OF
4 ALL TRANSITION ASSISTANCE DIRECTLY TO COLORADO WORKERS, AND THE
5 AUTHORITY SHALL NOT DISBURSE MONEY AS TRANSITION ASSISTANCE TO
6 THE DEPARTMENT OF LOCAL AFFAIRS OR A LOCAL GOVERNMENT OR
7 AGENCY OF LOCAL GOVERNMENT IF THE RECEIPT OF THE MONEY WOULD
8 TRIGGER OR INCREASE THE AMOUNT OF ANY REFUND OF EXCESS STATE OR
9 LOCAL GOVERNMENT REVENUE REQUIRED BY SECTION 20 OF ARTICLE X OF
10 THE STATE CONSTITUTION, BUT MAY COMPENSATE THE DEPARTMENT OR
11 A LOCAL GOVERNMENT OR AGENCY OF LOCAL GOVERNMENT FOR SERVICES
12 CONTRACTED FOR PURSUANT TO SECTION 40-41-201 (3)(i).

13 (2) WHEN DETERMINING HOW BEST TO ADDRESS THE DIRECT
14 IMPACTS TO A LOCAL COMMUNITY RESULTING FROM THE RETIREMENT OF
15 ELECTRIC GENERATING FACILITIES AND PROVIDE TRANSITION ASSISTANCE,
16 THE AUTHORITY SHALL TAKE INTO CONSIDERATION THE ADVICE OF A
17 LOCAL ADVISORY COMMITTEE, WHICH THE AUTHORITY SHALL ESTABLISH
18 IN CONJUNCTION WITH EACH BOARD OF COUNTY COMMISSIONERS,
19 MUNICIPAL GOVERNING BODY, AND SCHOOL DISTRICT THAT INCLUDES ALL
20 OR A PORTION OF THE IMPACTED COMMUNITY. A LOCAL ADVISORY
21 COMMITTEE:

22 (a) CONSISTS OF ONE MEMBER APPOINTED BY EACH PARTICIPATING
23 BOARD OF COUNTY COMMISSIONERS, MUNICIPAL GOVERNING BODY, AND
24 SCHOOL DISTRICT;

25 (b) SHALL ADVISE THE AUTHORITY WITH RESPECT TO THE NATURE
26 AND SCOPE OF THE DIRECT IMPACTS TO THE COMMUNITY RESULTING FROM
27 THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY AND THE

1 DEVELOPMENT OF A TRANSITION ASSISTANCE PLAN FOR THE COMMUNITY;
2 AND

3 (c) MAY EITHER BE DISSOLVED BY THE AUTHORITY WHEN THE
4 TRANSITION ASSISTANCE IS COMPLETED OR MAINTAINED TO ADVISE THE
5 AUTHORITY REGARDING THE IMPLEMENTATION OF THE TRANSITION
6 ASSISTANCE.

7 **40-41-203. Voluntary contributions to authority by utilities.**

8 (1) UPON THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY, AN
9 ELECTRIC UTILITY MAY, AT ITS SOLE DISCRETION, TRANSFER TO THE
10 AUTHORITY AN AMOUNT OF UP TO FIFTEEN PERCENT OF THE NET PRESENT
11 VALUE OF OPERATIONAL SAVINGS CREATED BY THE RETIREMENT OF THE
12 ELECTRIC GENERATING FACILITY, WHETHER OR NOT THE ELECTRIC UTILITY
13 HAS OBTAINED A FINANCING ORDER AND ISSUED CO-EIA BONDS IN
14 CONNECTION WITH THE RETIREMENT OF THE ELECTRIC GENERATING
15 FACILITY. A DECISION BY A COLORADO ELECTRIC UTILITY TO TRANSFER A
16 PERCENTAGE OF THE NET PRESENT VALUE OF OPERATING SAVINGS TO THE
17 AUTHORITY SHALL BE DEEMED BY THE COMMISSION TO BE A PRUDENT
18 ACTION BY THE UTILITY.

19 (2) FOR PURPOSES OF THIS SECTION, THE NET PRESENT VALUE OF
20 OPERATIONAL SAVINGS CREATED BY THE RETIREMENT OF AN ELECTRIC
21 GENERATING FACILITY IS THE NET PRESENT VALUE OF THE ANNUAL
22 DIFFERENCES BETWEEN THE ESTIMATED COST TO RATEPAYERS OF THE
23 CONTINUED OPERATION OF THE ELECTRIC GENERATING FACILITY MINUS
24 THE ESTIMATED COST OF ENERGY GENERATED OR PURCHASED TO REPLACE
25 THE ENERGY PREVIOUSLY GENERATED BY THE FACILITY.

26 **40-41-204. Reporting to general assembly.** NOTWITHSTANDING
27 SECTION 24-1-136 (11), FOR ANY FISCAL YEAR IN WHICH THE AUTHORITY

1 HAS PROVIDED TRANSITION ASSISTANCE, THE AUTHORITY, NO LATER THAN
2 FEBRUARY 15 OF THE FOLLOWING FISCAL YEAR, SHALL SUBMIT TO THE
3 FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE
4 SENATE, THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE
5 OF REPRESENTATIVES, AND THE AGRICULTURE, NATURAL RESOURCES, AND
6 ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, A
7 REPORT THAT SETS FORTH A COMPLETE AND DETAILED FINANCIAL AND
8 OPERATING STATEMENT OF THE AUTHORITY DURING THE FISCAL YEAR.

9 **40-41-205. Authority subject to open meetings and open**
10 **records laws.** THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
11 PROVISIONS OF PART 4 OF ARTICLE 6 OF TITLE 24 AND THE "COLORADO
12 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

13 **SECTION 2.** In Colorado Revised Statutes, 24-77-102, **amend**
14 the introductory portion; and **add** (15)(b)(XIX) as follows:

15 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
16 the context otherwise requires:

- 17 (15) (b) "Special purpose authority" includes, but is not limited to:
18 (XIX) THE COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY
19 CREATED PURSUANT TO SECTION 40-41-201 (1).

20 **SECTION 3. 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 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.