

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0098.01 Jason Gelender x4330

**HOUSE BILL 19-1037**

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**HOUSE SPONSORSHIP**

**Hansen,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Energy & Environment

**Senate Committees**

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**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.**

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**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.

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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 THAT THE STATE WILL NOT TAKE ANY ACTION THAT WOULD  
6 PREVENT, OBSTRUCT, IMPAIR, OR LIMIT THE PAYMENT OF PRINCIPAL AND  
7 INTEREST ON SECURITIZED ELECTRIC UTILITY RATEPAYER-BACKED BONDS  
8 AS THOSE AMOUNTS BECOME LEGALLY DUE AND OWING; AND

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

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

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

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

1 (c) THE PRIMARY PURPOSE OF THIS ACT IS TO AUTHORIZE THE  
2 ISSUANCE OF LOW-COST SECURITIZED RATEPAYER-BACKED BONDS, THE  
3 PROCEEDS OF WHICH MUST BE USED SOLELY:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) ANY PAYMENT REQUIRED UNDER AN ANCILLARY AGREEMENT  
27 AND ANY AMOUNT REQUIRED TO FUND OR REPLENISH A RESERVE ACCOUNT

1 OR OTHER ACCOUNTS ESTABLISHED UNDER THE TERMS OF ANY INDENTURE,  
2 ANCILLARY AGREEMENT, OR OTHER FINANCING DOCUMENT PERTAINING TO  
3 CO-EIA BONDS;

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

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

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

21 (f) ANY COSTS INCURRED BY AN ELECTRIC UTILITY TO PAY THE  
22 COMMISSION'S COSTS OF ENGAGING SPECIALIZED COUNSEL AND EXPERT  
23 CONSULTANTS EXPERIENCED IN SECURITIZED ELECTRIC UTILITY  
24 RATEPAYER-BACKED BOND FINANCING SIMILAR TO CO-EIA BONDS AS  
25 AUTHORIZED BY SECTION 40-41-108 (4).

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 RETAIL  
21 ELECTRICITY USING UTILITY TRANSMISSION OR DISTRIBUTION FACILITIES  
22 FROM THE ELECTRIC UTILITY OR ITS SUCCESSORS OR ASSIGNEES UNDER  
23 COMMISSION-APPROVED RATE SCHEDULES OR UNDER SPECIAL CONTRACTS,  
24 EVEN IF A CUSTOMER ELECTS TO PURCHASE ELECTRICITY FROM AN  
25 ELECTRIC SUPPLIER OTHER THAN THE UTILITY; AND

26 (b) ANY PERSON LOCATED WITHIN THE ELECTRIC UTILITY SERVICE  
27 AREA THAT MAY SUBSEQUENTLY RECEIVE RETAIL ELECTRICITY USING

1 UTILITY TRANSMISSION OR DISTRIBUTION FACILITIES FROM ANOTHER  
2 ELECTRIC UTILITY OPERATING IN 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) NOTWITHSTANDING THE LIMITATION ON THE USE OF  
7 RATEPAYER FUNDS SET FORTH IN SECTION 40-3-114, PROVIDE THAT AN  
8 AMOUNT OF CO-EIA BOND PROCEEDS EQUAL TO FIFTEEN PERCENT OF THE  
9 NET PRESENT VALUE OF ELECTRIC UTILITY CUSTOMER SAVINGS ESTIMATED  
10 PURSUANT TO SECTION 40-41-104 (3)(e) BE TRANSFERRED TO THE  
11 AUTHORITY BY THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER  
12 APPLIES FOR USE BY THE AUTHORITY IN PROVIDING TRANSITION  
13 ASSISTANCE AS REQUIRED BY SECTION 40-41-202 AND PAYING ITS  
14 REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS  
15 AUTHORIZED BY SECTION 40-41-201 (3)(f); EXCEPT THAT THE COMMISSION  
16 MAY CONSIDER, AND IF DETERMINED AS PART OF AN EVIDENTIARY  
17 PROCEEDING TO BE APPROPRIATE, APPROVE THE USE OF UP TO AN  
18 ADDITIONAL TEN PERCENT OF THE NET PRESENT VALUE FOR SUCH USE BY  
19 THE AUTHORITY IF THE COMMISSION FINDS THAT FIFTEEN PERCENT IS NOT  
20 ADEQUATE TO MEET THE SCOPE OF LOCAL NEEDS;

21 (c) DESCRIBE THE PROPOSED CUSTOMER BILLING MECHANISM FOR  
22 CO-EIA CHARGES AND INCLUDE A FINDING THAT THE MECHANISM IS JUST  
23 AND REASONABLE;

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

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

4 (f) AUTHORIZE THE APPLICANT ELECTRIC UTILITY TO FINANCE  
5 CO-EIA COSTS THROUGH THE ISSUANCE OF ONE OR MORE SERIES OF  
6 CO-EIA BONDS. AN ELECTRIC UTILITY IS NOT REQUIRED TO SECURE A  
7 SEPARATE FINANCING ORDER FOR EACH ISSUANCE OF CO-EIA BONDS OR  
8 FOR EACH SCHEDULED PHASE OF THE PREVIOUSLY APPROVED RETIREMENT  
9 OF ELECTRIC GENERATING FACILITIES APPROVED IN THE FINANCING ORDER.

10 (g) INCLUDE AN ADJUSTMENT MECHANISM FOR MAKING  
11 EXPEDITIOUS PERIODIC ADJUSTMENTS IN THE CO-EIA CHARGES THAT  
12 CUSTOMERS ARE REQUIRED TO PAY PURSUANT TO THE FINANCING ORDER  
13 AND FOR MAKING ANY ADJUSTMENTS THAT ARE NECESSARY TO CORRECT  
14 FOR ANY OVER COLLECTION OR UNDER COLLECTION OF THE CO-EIA  
15 CHARGES IN PAST PERIODS OR TO OTHERWISE GUARANTEE THE TIMELY  
16 PAYMENT OF CO-EIA BONDS AND FINANCING COSTS AND OTHER  
17 REQUIRED AMOUNTS AND CHARGES PAYABLE IN CONNECTION WITH  
18 CO-EIA BONDS;

19 (h) INCLUDE ANY ADDITIONAL FINDINGS OR CONCLUSIONS DEEMED  
20 APPROPRIATE BY THE COMMISSION;

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

25 (j) SPECIFY THE TIMING OF ACTIONS REQUIRED BY THE ORDER SO  
26 THAT:

27 (I) THE CO-EIA BONDS ARE ISSUED AS SOON AS FEASIBLE

1 FOLLOWING THE ISSUANCE OF THE FINANCING ORDER, INDEPENDENT OF  
2 THE SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC  
3 GENERATING FACILITY;

4 (II) THE ENERGY ASSISTANCE FUNDS ARE TRANSFERRED TO THE  
5 AUTHORITY AS SOON AS FEASIBLE, BUT NO LATER THAN THE EARLIER OF  
6 THE DATE ON WHICH THE ELECTRIC GENERATING FACILITY CEASES  
7 OPERATION; AND

8 (III) THE APPLICANT ELECTRIC UTILITY FILES TO REDUCE ITS RATES  
9 AS REQUIRED IN SUBSECTION (4) OF THIS SECTION SIMULTANEOUSLY WITH  
10 THE INCEPTION OF THE CO-EIA CHARGES AND INDEPENDENTLY OF THE  
11 SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC  
12 GENERATING FACILITY; AND

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

21 (3) A FINANCING ORDER ISSUED TO AN ELECTRIC UTILITY MUST  
22 PERMIT AND MAY REQUIRE THE CREATION OF AN ELECTRIC UTILITY'S  
23 CO-EIA PROPERTY PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION TO  
24 BE CONDITIONED UPON, AND SIMULTANEOUS WITH, THE SALE OR OTHER  
25 TRANSFER OF THE CO-EIA PROPERTY TO AN ASSIGNEE AND THE PLEDGE  
26 OF THE CO-EIA PROPERTY TO SECURE CO-EIA BONDS.

27 (4) A FINANCING ORDER SHALL REQUIRE THE APPLICANT ELECTRIC

1 UTILITY, SIMULTANEOUSLY WITH THE INCEPTION OF THE COLLECTION OF  
2 CO-EIA CHARGES, TO REDUCE ITS RATES THROUGH A REDUCTION IN BASE  
3 RATES OR BY A NEGATIVE RIDER ON CUSTOMER BILLS IN AN AMOUNT  
4 EQUAL TO THE REVENUE REQUIREMENT ASSOCIATED WITH THE UTILITY  
5 ASSETS BEING FINANCED BY CO-EIA BONDS.

6 **40-41-106. Effect of financing order.** (1) A FINANCING ORDER  
7 REMAINS IN EFFECT UNTIL THE CO-EIA BONDS ISSUED AS AUTHORIZED BY  
8 THE FINANCING ORDER HAVE BEEN PAID IN FULL AND ALL FINANCING  
9 COSTS RELATING TO THE CO-EIA BONDS HAVE BEEN PAID IN FULL.

10 (2) A FINANCING ORDER REMAINS IN EFFECT AND UNABATED  
11 NOTWITHSTANDING THE BANKRUPTCY, REORGANIZATION, OR INSOLVENCY  
12 OF THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES OR  
13 ANY AFFILIATE OF THE ELECTRIC UTILITY OR SUCCESSOR ENTITY OR  
14 ASSIGNEE.

15 (3) SUBJECT TO JUDICIAL REVIEW AS PROVIDED FOR IN SECTION  
16 40-41-109, A FINANCING ORDER IS IRREVOCABLE. THEREFORE,  
17 NOTWITHSTANDING SECTION 40-6-112 (1), THE COMMISSION MAY NOT  
18 REDUCE, IMPAIR, POSTPONE, OR TERMINATE CO-EIA CHARGES APPROVED  
19 IN A FINANCING ORDER OR IMPAIR CO-EIA PROPERTY OR THE COLLECTION  
20 OR RECOVERY OF CO-EIA REVENUE.

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

27 (a) THE COMMISSION MAKES ALL OF THE FINDINGS SPECIFIED IN

1 SECTION 40-41-105 (1) WITH RESPECT TO THE SUBSEQUENT FINANCING  
2 ORDER; AND

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

7 **40-41-107. Effect on commission jurisdiction.** (1) EXCEPT AS  
8 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, IF THE  
9 COMMISSION ISSUES A FINANCING ORDER TO AN ELECTRIC UTILITY, THE  
10 COMMISSION SHALL NOT, IN EXERCISING ITS POWERS AND CARRYING OUT  
11 ITS DUTIES PURSUANT TO THIS ARTICLE 41:

12 (a) CONSIDER THE CO-EIA BONDS ISSUED PURSUANT TO THE  
13 FINANCING ORDER TO BE DEBT OF THE ELECTRIC UTILITY OTHER THAN FOR  
14 INCOME TAX PURPOSES UNLESS IT IS NECESSARY TO CONSIDER THE  
15 CO-EIA BONDS TO BE SUCH DEBT TO ACHIEVE CONSISTENCY WITH  
16 PREVAILING UTILITY DEBT RATING METHODOLOGIES;

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

19 (c) CONSIDER THE CO-EIA COSTS OR FINANCING COSTS SPECIFIED  
20 IN THE FINANCING ORDER TO BE THE REGULATED COSTS OR ASSETS OF THE  
21 ELECTRIC UTILITY; OR

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

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

26 (a) AFFECTS THE AUTHORITY OF THE COMMISSION TO APPLY OR  
27 MODIFY ANY BILLING MECHANISM DESIGNED TO RECOVER CO-EIA

1 CHARGES;  
2 (b) PREVENTS OR PRECLUDES THE COMMISSION FROM  
3 INVESTIGATING THE COMPLIANCE OF AN ELECTRIC UTILITY WITH THE  
4 TERMS AND CONDITIONS OF A FINANCING ORDER AND REQUIRING  
5 COMPLIANCE WITH THE FINANCING ORDER; OR

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

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

15 **40-41-108. Electric utility customer protection - legislative**  
16 **declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES  
17 THAT:

18 (a) THE USE OF CO-EIA BOND FINANCING WILL BRING  
19 SUBSTANTIAL BENEFITS TO COLORADO ELECTRIC UTILITY CUSTOMERS AND  
20 TO COLORADO ELECTRIC GENERATING FACILITY WORKERS AND COLORADO  
21 COMMUNITIES THAT ARE DIRECTLY IMPACTED BY THE RETIREMENT OF  
22 ELECTRIC GENERATING FACILITIES; AND

23 (b) BECAUSE, SUBJECT TO JUDICIAL REVIEW AS PROVIDED FOR IN  
24 SECTION 40-41-109, THE COMMISSION'S APPROVAL OF A FINANCING ORDER  
25 IS IRREVOCABLE, TYPICALLY ADDRESSES VERY LARGE AMOUNTS OF  
26 FINANCING UNDERTAKEN PURSUANT TO THIS ARTICLE 41, AND CAN ONLY  
27 BE SUPERSEDED BY THE COMMISSION THROUGH THE ISSUANCE OF A

1 SUBSEQUENT FINANCING ORDER TO THE LIMITED EXTENT AND IN THE  
2 LIMITED CIRCUMSTANCES SPECIFIED IN SECTIONS 40-41-106 (4) AND  
3 40-41-114 (3), IN ADDITION TO ITS OTHER POWERS AND DUTIES, THE  
4 COMMISSION HAS THE DUTY TO PERFORM AND AUTHORITY REQUIRED TO  
5 PERFORM COMPREHENSIVE DUE DILIGENCE IN ITS EVALUATION OF AN  
6 APPLICATION FOR A FINANCING ORDER AND HAS THE DUTY AND  
7 AUTHORITY TO OVERSEE THE PROCESS USED TO STRUCTURE, MARKET, AND  
8 PRICE CO-EIA BONDS.

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

10 (a) THE COMMISSION MAY ATTACH SUCH CONDITIONS TO THE  
11 APPROVAL OF A FINANCING ORDER AS THE COMMISSION DEEMS  
12 APPROPRIATE TO MAXIMIZE THE FINANCIAL BENEFITS OR MINIMIZE THE  
13 FINANCIAL RISKS OF THE TRANSACTION TO CUSTOMERS AND TO DIRECTLY  
14 IMPACTED COLORADO WORKERS AND COMMUNITIES;

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

18 (c) THE COMMISSION SHALL REVIEW AND DETERMINE THE  
19 REASONABLENESS OF ALL PROPOSED UP-FRONT AND ONGOING FINANCING  
20 COSTS; AND

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

25 (3) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ISSUANCE OF  
26 CO-EIA BONDS, THE APPLICANT ELECTRIC UTILITY SHALL FILE WITH THE  
27 COMMISSION INFORMATION REGARDING THE ACTUAL UP-FRONT AND

1 ONGOING FINANCING COSTS OF THE CO-EIA BONDS. THE COMMISSION  
2 SHALL REVIEW THE PRUDENCE OF THE ELECTRIC UTILITY'S ACTION TO  
3 DETERMINE WHETHER THE COSTS RESULTED IN THE LOWEST OVERALL  
4 COSTS THAT WERE REASONABLY CONSISTENT WITH BOTH MARKET  
5 CONDITIONS AT THE TIME OF THE ISSUANCE AND THE TERMS OF THE  
6 FINANCING ORDER. IF THE COMMISSION DETERMINES THAT THE ELECTRIC  
7 UTILITY'S ACTIONS WERE NOT PRUDENT OR WERE INCONSISTENT WITH THE  
8 FINANCING ORDER, THE COMMISSION MAY APPLY ANY REMEDIES THAT ARE  
9 AVAILABLE TO IT UNDER ARTICLE 7 OF THIS TITLE 40; EXCEPT THAT THE  
10 COMMISSION SHALL NOT APPLY ANY REMEDY THAT HAS THE EFFECT,  
11 DIRECTLY OR INDIRECTLY, OF IMPAIRING THE SECURITY FOR THE CO-EIA  
12 BONDS.

13 (4) IN PERFORMING ITS RESPONSIBILITIES UNDER THIS ARTICLE 41,  
14 THE COMMISSION MAY ENGAGE OUTSIDE CONSULTANTS AND COUNSEL,  
15 SELECTED BY THE COMMISSION, WHO ARE EXPERIENCED IN SECURITIZED  
16 ELECTRIC UTILITY RATEPAYER-BACKED BOND FINANCING SIMILAR TO  
17 CO-EIA BONDS. THESE OUTSIDE CONSULTANTS AND COUNSEL HAVE A  
18 DUTY OF LOYALTY SOLELY TO THE COMMISSION AND SHALL NOT BE  
19 INVOLVED, EITHER DIRECTLY OR INDIRECTLY THROUGH AFFILIATES, IN  
20 TRADING DEBT OR EQUITY SECURITIES ISSUED BY OR ON BEHALF OF ANY  
21 ELECTRIC UTILITY THAT HAS APPLIED FOR A FINANCING ORDER. THE  
22 EXPENSES ASSOCIATED WITH ANY ENGAGEMENT SHALL BE PAID BY THE  
23 APPLICANT UTILITY AS THEY ARE INCURRED, SHALL BE INCLUDED AS  
24 FINANCING COSTS AND INCLUDED IN THE CO-EIA CHARGE, ARE NOT AN  
25 OBLIGATION OF THE STATE, AND ARE ASSIGNED SOLELY TO THE  
26 TRANSACTION.

27 (5) IF AN ELECTRIC UTILITY'S APPLICATION FOR A FINANCING

1 ORDER IS DENIED OR WITHDRAWN OR FOR ANY REASON NO CO-EIA BONDS  
2 ARE ISSUED, ANY COSTS OF RETAINING EXPERT CONSULTANTS AND  
3 COUNSEL ON BEHALF OF THE COMMISSION, AS AUTHORIZED BY  
4 SUBSECTION (4) OF THIS SECTION, SHALL BE PAID BY THE APPLICANT  
5 ELECTRIC UTILITY AND SHALL BE CONSIDERED BY THE COMMISSION AS A  
6 PRUDENT DEFERRED EXPENSE FOR RECOVERY IN THE ELECTRIC UTILITY'S  
7 FUTURE RATES.

8 **40-41-109. Judicial review of financing orders.** A FINANCING  
9 ORDER IS A FINAL ORDER OF THE COMMISSION. NOTWITHSTANDING  
10 SECTION 40-6-115 (5) SPECIFYING PROPER VENUE FOR PETITION FILINGS,  
11 A PARTY AGGRIEVED BY THE ISSUANCE OF A FINANCING ORDER MAY  
12 PETITION FOR SUSPENSION AND REVIEW OF THE FINANCING ORDER ONLY IN  
13 THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER. IN THE CASE  
14 OF ANY PETITION FOR SUSPENSION AND REVIEW, THE COURT SHALL  
15 PROCEED TO HEAR AND DETERMINE THE ACTION AS EXPEDITIOUSLY AS  
16 PRACTICABLE AND SHALL GIVE THE ACTION PRECEDENCE OVER OTHER  
17 MATTERS NOT ACCORDED SIMILAR PRECEDENCE BY LAW.

18 **40-41-110. Electric utilities - duties.** (1) THE ELECTRIC BILLS OF  
19 AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND  
20 CAUSED CO-EIA BONDS TO BE ISSUED:

21 (a) MUST EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES  
22 ON THE BILL REPRESENTS CO-EIA CHARGES APPROVED IN A FINANCING  
23 ORDER ISSUED TO THE ELECTRIC UTILITY AND, IF THE CO-EIA PROPERTY  
24 HAS BEEN TRANSFERRED TO AN ASSIGNEE, MUST INCLUDE A STATEMENT  
25 THAT THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO CO-EIA CHARGES  
26 AND THAT THE ELECTRIC UTILITY OR OTHER ENTITY, IF APPLICABLE, IS  
27 ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE;

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

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

12 (2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER  
13 AND CAUSED CO-EIA BONDS TO BE ISSUED MUST DEMONSTRATE IN AN  
14 ANNUAL FILING WITH THE COMMISSION THAT CO-EIA REVENUES ARE  
15 APPLIED SOLELY TO THE REPAYMENT OF CO-EIA BONDS AND OTHER  
16 FINANCING COSTS.

17 **40-41-111. CO-EIA property.** (1) CO-EIA PROPERTY THAT IS  
18 DESCRIBED IN A FINANCING ORDER CONSTITUTES AN EXISTING PRESENT  
19 PROPERTY RIGHT OR INTEREST IN AN EXISTING PRESENT PROPERTY RIGHT  
20 EVEN THOUGH THE IMPOSITION AND COLLECTION OF CO-EIA CHARGES  
21 DEPENDS ON THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER IS  
22 ISSUED PERFORMING ITS SERVICING FUNCTIONS RELATING TO THE  
23 COLLECTION OF CO-EIA CHARGES AND ON FUTURE ELECTRICITY  
24 CONSUMPTION. THE PROPERTY RIGHT OR INTEREST EXISTS REGARDLESS OF  
25 WHETHER THE REVENUES OR PROCEEDS ARISING FROM THE CO-EIA  
26 PROPERTY HAVE BEEN BILLED, HAVE ACCRUED, OR HAVE BEEN COLLECTED  
27 AND NOTWITHSTANDING THE FACT THAT THE VALUE OR AMOUNT OF THE

1 PROPERTY RIGHT OR INTEREST IS DEPENDENT ON THE FUTURE PROVISION  
2 OF SERVICE TO CUSTOMERS BY THE ELECTRIC UTILITY OR A SUCCESSOR OR  
3 ASSIGNEE OF THE ELECTRIC UTILITY.

4 (2) CO-EIA PROPERTY DESCRIBED IN A FINANCING ORDER EXISTS  
5 UNTIL ALL CO-EIA BONDS ISSUED PURSUANT TO THE FINANCING ORDER  
6 ARE PAID IN FULL AND ALL FINANCING COSTS AND OTHER COSTS OF THE  
7 CO-EIA BONDS HAVE BEEN RECOVERED IN FULL.

8 (3) ALL OR ANY PORTION OF CO-EIA PROPERTY DESCRIBED IN A  
9 FINANCING ORDER ISSUED TO AN ELECTRIC UTILITY MAY BE TRANSFERRED,  
10 SOLD, CONVEYED, OR ASSIGNED TO A SUCCESSOR OR ASSIGNEE THAT IS  
11 WHOLLY OWNED, DIRECTLY OR INDIRECTLY, BY THE ELECTRIC UTILITY  
12 AND IS CREATED FOR THE LIMITED PURPOSE OF ACQUIRING, OWNING, OR  
13 ADMINISTERING CO-EIA PROPERTY OR ISSUING CO-EIA BONDS AS  
14 AUTHORIZED BY THE FINANCING ORDER. ALL OR ANY PORTION OF CO-EIA  
15 PROPERTY MAY BE PLEDGED TO SECURE CO-EIA BONDS ISSUED PURSUANT  
16 TO A FINANCING ORDER, AMOUNTS PAYABLE TO FINANCING PARTIES AND  
17 TO COUNTERPARTIES UNDER ANY ANCILLARY AGREEMENTS, AND OTHER  
18 FINANCING COSTS. EACH TRANSFER, SALE, CONVEYANCE, ASSIGNMENT, OR  
19 PLEDGE BY AN ELECTRIC UTILITY OR AN AFFILIATE OF AN ELECTRIC  
20 UTILITY IS A TRANSACTION IN THE NORMAL COURSE OF BUSINESS FOR  
21 PURPOSES OF SECTION 40-5-105 (1)(a).

22 (4) IF AN ELECTRIC UTILITY DEFAULTS ON ANY REQUIRED PAYMENT  
23 OF CHARGES ARISING FROM CO-EIA PROPERTY DESCRIBED IN A FINANCING  
24 ORDER, A COURT, UPON APPLICATION BY AN INTERESTED PARTY AND  
25 WITHOUT LIMITING ANY OTHER REMEDIES AVAILABLE TO THE APPLYING  
26 PARTY, SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE  
27 REVENUE ARISING FROM THE CO-EIA PROPERTY TO THE FINANCING

1 PARTIES. ANY SUCH FINANCING ORDER REMAINS IN FULL FORCE AND  
2 EFFECT NOTWITHSTANDING ANY REORGANIZATION, BANKRUPTCY, OR  
3 OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE ELECTRIC  
4 UTILITY OR ITS SUCCESSORS OR ASSIGNEES.

5 (5) THE INTEREST OF A TRANSFEREE, PURCHASER, ACQUIRER,  
6 ASSIGNEE, OR PLEDGEE IN CO-EIA PROPERTY SPECIFIED IN A FINANCING  
7 ORDER ISSUED TO AN ELECTRIC UTILITY, AND IN THE REVENUE AND  
8 COLLECTIONS ARISING FROM THAT PROPERTY, IS NOT SUBJECT TO SETOFF,  
9 COUNTERCLAIM, SURCHARGE, OR DEFENSE BY THE ELECTRIC UTILITY OR  
10 ANY OTHER PERSON OR IN CONNECTION WITH THE REORGANIZATION,  
11 BANKRUPTCY, OR OTHER INSOLVENCY OF THE ELECTRIC UTILITY OR ANY  
12 OTHER ENTITY.

13 (6) A SUCCESSOR TO AN ELECTRIC UTILITY, WHETHER PURSUANT  
14 TO ANY REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY  
15 PROCEEDING OR WHETHER PURSUANT TO ANY MERGER OR ACQUISITION,  
16 SALE, OTHER BUSINESS COMBINATION, OR TRANSFER BY OPERATION OF  
17 LAW, AS A RESULT OF ELECTRIC UTILITY RESTRUCTURING OR OTHERWISE,  
18 MUST PERFORM AND SATISFY ALL OBLIGATIONS OF, AND HAS THE SAME  
19 DUTIES AND RIGHTS UNDER A FINANCING ORDER AS THE ELECTRIC UTILITY  
20 TO WHICH THE FINANCING ORDER APPLIES AND SHALL PERFORM THE  
21 DUTIES AND EXERCISE THE RIGHTS IN THE SAME MANNER AND TO THE  
22 SAME EXTENT AS THE ELECTRIC UTILITY, INCLUDING COLLECTING AND  
23 PAYING TO ANY PERSON ENTITLED TO RECEIVE THEM THE REVENUES,  
24 COLLECTIONS, PAYMENTS, OR PROCEEDS OF CO-EIA PROPERTY DESCRIBED  
25 IN THE FINANCING ORDER.

26 **40-41-112. CO-EIA bonds - legal investments - not public debt**  
27 **- pledge of state.** (1) BANKS, TRUST COMPANIES, SAVINGS AND LOAN

1 ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS,  
2 GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST  
3 ANY MONEY WITHIN THEIR CONTROL IN CO-EIA BONDS. PUBLIC ENTITIES,  
4 AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC FUNDS IN  
5 CO-EIA BONDS ONLY IF THE CO-EIA BONDS SATISFY THE INVESTMENT  
6 REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24.

7 (2) CO-EIA BONDS ISSUED AS AUTHORIZED BY A FINANCING  
8 ORDER ARE NOT DEBT OF OR A PLEDGE OF THE FAITH AND CREDIT OR  
9 TAXING POWER OF THE STATE, ANY AGENCY OF THE STATE, OR ANY  
10 COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE.  
11 HOLDERS OF CO-EIA BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY  
12 THE STATE OR BY ANY COUNTY, MUNICIPALITY, OR OTHER POLITICAL  
13 SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR  
14 INTEREST ON CO-EIA BONDS. THE ISSUANCE OF CO-EIA BONDS DOES NOT  
15 DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR A  
16 POLITICAL SUBDIVISION OF THE STATE TO LEVY ANY TAX OR MAKE ANY  
17 APPROPRIATION FOR PAYMENT OF PRINCIPAL OR INTEREST ON THE CO-EIA  
18 BONDS.

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

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

24 (II) REDUCE, ALTER, OR IMPAIR CO-EIA CHARGES THAT ARE  
25 IMPOSED, COLLECTED, AND REMITTED FOR THE BENEFIT OF HOLDERS OF  
26 CO-EIA BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES, UNTIL ANY  
27 PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM PAYABLE ON CO-EIA

1 BONDS, ALL FINANCING COSTS, AND ALL AMOUNTS TO BE PAID TO AN  
2 ASSIGNEE OR FINANCING PARTY UNDER AN ANCILLARY AGREEMENT ARE  
3 PAID IN FULL.

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

8 **40-41-113. Assignee or financing party not automatically**  
9 **subject to commission regulation.** AN ELECTRIC UTILITY, ASSIGNEE, OR  
10 FINANCING PARTY THAT IS NOT ALREADY REGULATED BY THE COMMISSION  
11 DOES NOT BECOME SUBJECT TO COMMISSION REGULATION SOLELY AS A  
12 RESULT OF ENGAGING IN ANY TRANSACTION AUTHORIZED BY OR  
13 DESCRIBED IN THIS ARTICLE 41.

14 **40-41-114. Effect of other laws and judicial decisions.** (1) IF  
15 ANY PROVISION OF THIS ARTICLE 41 CONFLICTS WITH ANY OTHER LAW  
16 REGARDING THE ATTACHMENT, ASSIGNMENT, PERFECTION, EFFECT OF  
17 PERFECTION, OR PRIORITY OF ANY SECURITY INTEREST IN OR TRANSFER OF  
18 CO-EIA PROPERTY, THE PROVISION OF THIS ARTICLE 41 GOVERNS TO THE  
19 EXTENT OF THE CONFLICT.

20 (2) EFFECTIVE ON THE DATE THAT CO-EIA BONDS ARE FIRST  
21 ISSUED, IF ANY PROVISION OF THIS ARTICLE 41 IS HELD TO BE INVALID OR  
22 IS INVALIDATED, SUPERSEDED, REPLACED, REPEALED, OR EXPIRES, THAT  
23 OCCURRENCE DOES NOT AFFECT ANY ACTION ALLOWED UNDER THIS  
24 ARTICLE 41 THAT WAS LAWFULLY TAKEN BY THE COMMISSION, AN  
25 ELECTRIC UTILITY, AN ASSIGNEE, A COLLECTION AGENT, A FINANCING  
26 PARTY, A BONDHOLDER, OR A PARTY TO AN ANCILLARY AGREEMENT  
27 BEFORE THE OCCURRENCE, AND ANY SUCH ACTION REMAINS IN FULL FORCE

1 AND EFFECT.

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

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

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

10 **40-41-115. Choice of law.** THE LAWS OF THE STATE GOVERN THE  
11 VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY, AND  
12 EXERCISE OF REMEDIES WITH RESPECT TO THE TRANSFER OF AN INTEREST  
13 OR RIGHT OR CREATION OF A SECURITY INTEREST IN ANY CO-EIA  
14 PROPERTY, CO-EIA CHARGE, OR FINANCING ORDER.

15 **40-41-116. Security interests in CO-EIA property.** (1) THE  
16 CREATION, PERFECTION, AND ENFORCEMENT OF ANY SECURITY INTEREST  
17 IN CO-EIA PROPERTY TO SECURE THE REPAYMENT OF THE PRINCIPAL OF  
18 AND INTEREST ON CO-EIA BONDS, AMOUNTS PAYABLE UNDER ANY  
19 ANCILLARY AGREEMENT, AND OTHER FINANCING COSTS ARE GOVERNED BY  
20 THIS SECTION AND NOT BY THE "UNIFORM COMMERCIAL CODE", TITLE 4.

21 (2) THE DESCRIPTION OR INDICATION OF CO-EIA PROPERTY IN A  
22 TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS  
23 SUFFICIENT ONLY IF THE DESCRIPTION OR INDICATION REFERS TO THIS  
24 ARTICLE 41 AND THE FINANCING ORDER CREATING THE CO-EIA  
25 PROPERTY.

26 (3) (a) A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED,  
27 VALID, AND BINDING AS SOON AS ALL OF THE FOLLOWING EVENTS HAVE

1 OCCURRED:

2 (I) THE FINANCING ORDER THAT DESCRIBES THE CO-EIA  
3 PROPERTY IS ISSUED;

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

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

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

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

27 (5) THE PRIORITY OF A SECURITY INTEREST IN CO-EIA PROPERTY

1 IS NOT AFFECTED BY THE COMMINGLING OF CO-EIA PROPERTY OR  
2 CO-EIA REVENUE WITH OTHER MONEY. AN ASSIGNEE, BONDHOLDER, OR  
3 FINANCING PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT  
4 OF ALL CO-EIA PROPERTY OR CO-EIA REVENUE THAT IS PLEDGED FOR  
5 THE PAYMENT OF CO-EIA BONDS EVEN IF THE CO-EIA PROPERTY OR  
6 CO-EIA REVENUE IS DEPOSITED IN A CASH OR DEPOSIT ACCOUNT OF THE  
7 ELECTRIC UTILITY IN WHICH THE CO-EIA REVENUE IS COMMINGLED WITH  
8 OTHER MONEY, AND ANY OTHER SECURITY INTEREST THAT APPLIES TO THE  
9 OTHER MONEY DOES NOT APPLY TO THE CO-EIA REVENUE.

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

15 **40-41-117. Sales of CO-EIA property.** (1) (a) A SALE,  
16 ASSIGNMENT, OR TRANSFER OF CO-EIA PROPERTY IS AN ABSOLUTE  
17 TRANSFER AND TRUE SALE OF, AND NOT A PLEDGE OF OR SECURED  
18 TRANSACTION RELATING TO, THE SELLER'S RIGHT, TITLE AND INTEREST IN,  
19 TO, AND UNDER THE CO-EIA PROPERTY IF THE DOCUMENTS GOVERNING  
20 THE TRANSACTION EXPRESSLY STATE THAT THE TRANSACTION IS A SALE  
21 OR OTHER ABSOLUTE TRANSFER. A TRANSFER OF AN INTEREST IN CO-EIA  
22 PROPERTY MAY BE CREATED ONLY WHEN ALL OF THE FOLLOWING HAVE  
23 OCCURRED:

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

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

1 (III) VALUE IS RECEIVED.

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

17 (2) THE CHARACTERIZATION OF A SALE, ASSIGNMENT, OR  
18 TRANSFER AS AN ABSOLUTE TRANSFER AND TRUE SALE AND THE  
19 CORRESPONDING CHARACTERIZATION OF THE PROPERTY INTEREST OF THE  
20 ASSIGNEE IS NOT AFFECTED OR IMPAIRED BY THE EXISTENCE OR  
21 OCCURRENCE OF ANY OF THE FOLLOWING:

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

23 (b) THE RETENTION BY THE SELLER OF:

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

27 (II) THE RIGHT TO RECOVER COSTS ASSOCIATED WITH TAXES,

1 FRANCHISE FEES, OR LICENSE FEES IMPOSED ON THE COLLECTION OF  
2 CO-EIA REVENUE;

3 (c) ANY RECOURSE THAT THE PURCHASER MAY HAVE AGAINST THE  
4 SELLER;

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

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

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

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

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

15 **40-41-118. Use of CO-EIA bond proceeds by an electric utility**

16 - **definition.** (1) FOR PURPOSES OF THIS SECTION, "LEAST-COST  
17 GENERATION RESOURCE" MEANS AN INCREMENTAL SUPPLY-SIDE OR  
18 DEMAND-SIDE RESOURCE THAT, WHEN INCLUDED IN AN ELECTRIC UTILITY'S  
19 GENERATION PORTFOLIO, PRODUCES THE LOWEST COST AMONG  
20 ALTERNATIVE RESOURCES, CONSIDERING BOTH SHORT-TERM AND  
21 LONG-TERM COSTS AND ASSESSING THE LIKELIHOOD OF CHANGES IN  
22 FUTURE FUEL PRICES AND FUTURE ENVIRONMENTAL REQUIREMENTS,  
23 AMONG OTHER CONSIDERATIONS.

24 (2) SUBJECT TO COMMISSION APPROVAL AS REQUIRED BY  
25 SUBSECTION (3) OF THIS SECTION, AN ELECTRIC UTILITY THAT ISSUES  
26 CO-EIA BONDS MAY EXPEND OR INVEST AN AMOUNT EQUAL TO THE  
27 AMOUNT OF CO-EIA BOND PROCEEDS PLUS, AT ITS DISCRETION, OTHER

1 FINANCIAL RESOURCES, IN A MANNER THAT DEMONSTRABLY BENEFITS  
2 RATEPAYER INTERESTS, AS FOLLOWS:

3 (a) TO PURCHASE POWER TO REPLACE ELECTRICITY GENERATED BY  
4 THE ELECTRIC GENERATING FACILITIES THAT WERE RETIRED IF THE  
5 COMMISSION DETERMINES THAT THE PURCHASED POWER IS A LEAST-COST  
6 GENERATION RESOURCE AND IS CONSISTENT WITH THE ELECTRIC UTILITY'S  
7 APPROVED INTEGRATED RESOURCE PLAN;

8 (b) TO BUILD AND OWN ELECTRIC GENERATING FACILITIES THAT  
9 ARE LEAST-COST GENERATION RESOURCES, THE ADDITION OF WHICH IS NOT  
10 INCONSISTENT WITH THE ELECTRIC UTILITY'S APPROVED INTEGRATED  
11 RESOURCE PLAN;

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

17 (d) TO INVEST IN NETWORK MODERNIZATION TO THE EXTENT THAT  
18 THE MODERNIZATION IS NECESSARY TO INCREASE THE AMOUNT OF  
19 LEAST-COST GENERATION RESOURCES ABLE TO BE ADDED TO THE  
20 ELECTRIC UTILITY'S SYSTEM; EXCEPT THAT PROCEEDS MAY NOT BE USED  
21 FOR NEW TRANSMISSION FACILITIES.

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

24 (a) USE ITS REGULAR PROCESS FOR CONSIDERATION OF  
25 APPLICATIONS;

26 (b) FOR LEAST-COST GENERATION RESOURCES, DETERMINE THE  
27 APPROPRIATE LEVELS OF ELECTRIC UTILITY RESOURCE OWNERSHIP, AS

1 PROVIDED FOR IN SUBSECTION (2)(b) OF THIS SECTION, WHICH LEVELS  
2 MUST BE NO LESS THAN THE FULL VALUE OF THE ELECTRIC GENERATING  
3 FACILITIES THAT WERE RETIRED AS AUTHORIZED BY THE FINANCING  
4 ORDER, AND PURCHASED POWER, AS PROVIDED FOR IN SUBSECTION (2)(a)  
5 OF THIS SECTION; AND

6 (c) FULLY CONSIDER THE PROVISIONS OF SECTION 40-2-123  
7 CONCERNING NEW ENERGY TECHNOLOGIES AND FUTURE ENVIRONMENTAL  
8 REGULATIONS.

9 (4) WHEN AN ELECTRIC UTILITY ACQUIRES LEAST-COST  
10 GENERATION RESOURCES TO REPLACE ELECTRIC GENERATING FACILITIES  
11 THAT WERE RETIRED AS AUTHORIZED BY A FINANCING ORDER, THE  
12 ELECTRIC UTILITY MAY OWN AN EQUIVALENT AMOUNT OF REPLACEMENT  
13 LEAST-COST GENERATION RESOURCES, AS MEASURED BY ENERGY OR  
14 CAPACITY AND TO THE EXTENT NEEDED TO SERVE EXISTING LOAD, AS  
15 FOLLOWS:

16 (a) UP TO AN ADDITIONAL FORTY PERCENT OF LEAST-COST  
17 GENERATION RESOURCES IF THE LEAST-COST GENERATION RESOURCES ARE  
18 ACQUIRED TO THE EXTENT NEEDED TO SERVE EXISTING LOAD THROUGH A  
19 BUILD-OPERATE-TRANSFER AGREEMENT;

20 (b) ANY LARGER AMOUNT OF LEAST-COST GENERATION  
21 RESOURCES THAT IS AUTHORIZED BY THE COMMISSION; AND

22 (c) AN INDEPENDENT EVALUATOR, SELECTED AND EMPLOYED BY  
23 THE COMMISSION AND PAID BY THE ELECTRIC UTILITY, PERFORMS A  
24 REVIEW, THE RESULTS OF WHICH THE INDEPENDENT EVALUATOR SHALL  
25 REPORT TO THE COMMISSION TOGETHER WITH AN EVALUATION OF THE  
26 SALE OF THE LEAST-COST GENERATION RESOURCES TO THE ELECTRIC  
27 UTILITY.

1 PART 2

2 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY

3 **40-41-201. Colorado energy impact assistance authority -**  
4 **creation - board - general powers and duties.** (1) THE COLORADO  
5 ENERGY IMPACT ASSISTANCE AUTHORITY IS HEREBY CREATED. THE  
6 AUTHORITY IS AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE,  
7 IS NOT AN AGENCY OF STATE GOVERNMENT, AND IS NOT SUBJECT TO  
8 ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD,  
9 OR AGENCY OF THE STATE. THE AUTHORITY IS A PUBLIC  
10 INSTRUMENTALITY, AND ITS EXERCISE OF ITS POWERS AND EXECUTION OF  
11 THE DUTIES AS SPECIFIED IN THIS ARTICLE 41 IS THE PERFORMANCE OF AN  
12 ESSENTIAL PUBLIC FUNCTION.

13 (2) (a) THE AUTHORITY IS GOVERNED BY A BOARD OF DIRECTORS,  
14 WHICH CONSISTS OF SEVEN DIRECTORS APPOINTED BY THE GOVERNOR AS  
15 FOLLOWS:

16 (I) ONE DIRECTOR WHO HAS PROFESSIONAL JOB TRAINING  
17 EXPERIENCE;

18 (II) ONE DIRECTOR WHO HAS PROFESSIONAL EXPERIENCE IN RURAL  
19 ECONOMIC DEVELOPMENT;

20 (III) ONE DIRECTOR WHO HAS ELECTRICAL TRADES LABOR  
21 EXPERIENCE; AND

22 (IV) FOUR DIRECTORS APPOINTED WITHOUT OCCUPATIONAL  
23 REQUIREMENTS, BUT THE GOVERNOR SHALL STRONGLY CONSIDER  
24 APPOINTING A DIRECTOR WHO IS LICENSED TO PRACTICE LAW IN  
25 COLORADO, A DIRECTOR WHO HAS PROFESSIONAL FINANCE EXPERIENCE,  
26 AND AT LEAST ONE DIRECTOR WHO RESIDES IN AN AREA DIRECTLY  
27 IMPACTED BY THE RETIREMENT OF ONE OR MORE ELECTRIC GENERATING

1 FACILITIES.

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

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

17 (3) THE PURPOSE AND MISSION OF THE AUTHORITY IS TO EXPEND  
18 MONEY RECEIVED FROM ELECTRIC UTILITIES THAT ARE ISSUING CO-EIA  
19 BONDS AS AUTHORIZED BY FINANCING ORDERS AND FROM OTHER SOURCES  
20 FOR THE PURPOSE OF MITIGATING DIRECT IMPACTS TO COLORADO  
21 WORKERS AND COMMUNITIES RESULTING FROM THE RETIREMENT OF  
22 ELECTRIC GENERATING FACILITIES. IN FURTHERANCE OF ITS MISSION, AND  
23 IN ADDITION TO ANY OTHER POWERS AND DUTIES GRANTED TO THE  
24 AUTHORITY BY THIS ARTICLE 41, THE AUTHORITY HAS THE FOLLOWING  
25 GENERAL POWERS:

26 (a) TO HAVE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS,  
27 LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND POLITICAL

- 1 SUBDIVISION OF THE STATE;
- 2 (b) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION;
- 3 (c) TO ADOPT, HAVE, AND USE A SEAL AND TO ALTER THE SAME AT  
4 ITS PLEASURE;
- 5 (d) TO ADOPT RULES, BYLAWS, ORDERS, AND RESOLUTIONS  
6 NECESSARY FOR THE REGULATION OF ITS AFFAIRS, THE CONDUCT OF ITS  
7 BUSINESS, THE EXERCISE OF ITS POWERS, AND THE FULFILLMENT OF ITS  
8 DUTIES AND MISSION AS SPECIFIED IN THIS ARTICLE 41;
- 9 (e) TO FIX THE TIME AND PLACE OF BOARD MEETINGS, WHICH MUST  
10 BE HELD AT LEAST FOUR TIMES PER YEAR AND, CONSISTENT WITH THE  
11 OPEN MEETINGS LAW UNDER PART 4 OF ARTICLE 6 OF TITLE 24, THE  
12 METHOD OF PROVIDING NOTICE OF BOARD MEETINGS. AT LEAST ONE  
13 BOARD MEETING PER YEAR MUST BE HELD IN-PERSON, AND OTHER  
14 MEETINGS MAY BE HELD USING AUDIO OR VIDEO TELECOMMUNICATIONS  
15 TECHNOLOGY.
- 16 (f) TO PAY ITS REASONABLE AND NECESSARY ADMINISTRATIVE  
17 AND OPERATING COSTS FROM ANY REVENUE THAT IT RECEIVES;
- 18 (g) TO SUE AND BE SUED;
- 19 (h) TO APPOINT, HIRE, RETAIN, AND TERMINATE OFFICERS AND  
20 EMPLOYEES AND CONTRACT WITH AGENTS, ATTORNEYS, ACCOUNTANTS,  
21 AUDITORS, FINANCIAL ADVISERS, INVESTMENT BANKERS, AND OTHER  
22 PROFESSIONAL CONSULTANTS TO THE EXTENT NEEDED TO EXERCISE ITS  
23 POWERS AND PERFORM ITS DUTIES UNDER THIS ARTICLE 41;
- 24 (i) TO ENTER INTO CONTRACTS AND AGREEMENTS, INCLUDING  
25 MEMORANDUMS OF UNDERSTANDING OR INTERGOVERNMENTAL  
26 AGREEMENTS WITH ONE OR MORE AGENCIES OR POLITICAL SUBDIVISIONS  
27 OF THE STATE OR ANOTHER STATE OR WITH THE FEDERAL GOVERNMENT,

1 NOT INCONSISTENT WITH THIS ARTICLE 41 OR ANY OTHER LAWS OF THE  
2 STATE. THE AUTHORITY MAY ENTER INTO A CONTRACT OR AGREEMENT  
3 WITH AN APPROPRIATE STATE AGENCY TO HELP THE AUTHORITY  
4 ADMINISTER THE DISTRIBUTION OF ITS MONEY AS TRANSITION ASSISTANCE,  
5 AND, IF IT DOES SO, THE MONEY ADMINISTERED REMAINS MONEY OF THE  
6 AUTHORITY UNTIL IT IS DISTRIBUTED AND IS NOT MONEY OR REVENUE OF  
7 THE STATE.

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

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

18 (l) TO HAVE AND EXERCISE ANY OTHER POWERS NECESSARY OR  
19 INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES  
20 GRANTED IN THIS SECTION.

21 **40-41-202. Mitigation of impacts - specific powers and duties**  
22 **of authority - local advisory committees.** (1) IN ORDER TO MITIGATE  
23 THE DIRECT IMPACTS TO COLORADO WORKERS AND LOCAL COMMUNITIES  
24 RESULTING FROM THE RETIREMENT OF ELECTRIC GENERATING FACILITIES,  
25 THE AUTHORITY HAS THE FOLLOWING SPECIFIC POWERS AND DUTIES:

26 (a) TO DETERMINE THE DIRECT IMPACTS THAT THE RETIREMENT OF  
27 AN ELECTRIC GENERATING FACILITY OWNED BY AN ELECTRIC UTILITY WILL

1 HAVE ON COLORADO WORKERS AND COMMUNITIES AND TO CONSULT WITH  
2 THE DEPARTMENT OF LOCAL AFFAIRS, LOCAL GOVERNMENTS, ELECTRIC  
3 UTILITIES, LABOR UNIONS, AND ANY OTHER PERSONS WHO POSSESS  
4 RELEVANT INFORMATION IN MAKING ANY SUCH DETERMINATION;

5 (b) TO RECEIVE PAYMENTS FROM ELECTRIC UTILITIES REQUIRED TO  
6 MAKE PAYMENTS TO THE AUTHORITY PURSUANT TO THE PROVISIONS OF A  
7 FINANCING ORDER AND MAINTAIN A BALANCING ACCOUNT TO HOLD ANY  
8 EXCESS MONEY NOT NEEDED IN THE SHORT RUN THAT HAS SEPARATE  
9 SUBACCOUNTS FOR EACH ELECTRIC UTILITY THAT MAKES PAYMENTS TO  
10 THE AUTHORITY; AND

11 (c) (I) TO PROVIDE TRANSITION ASSISTANCE, WHICH THE  
12 AUTHORITY MAY EITHER PROVIDE DIRECTLY OR, EXCEPT AS OTHERWISE  
13 PROVIDED IN SUBSECTION (1)(c)(II) OF THIS SECTION, MAY PROVIDE  
14 INDIRECTLY BY DISBURSING MONEY TO THE DEPARTMENT OF LOCAL  
15 AFFAIRS, TO ANY LOCAL GOVERNMENT OR AGENCY OF LOCAL  
16 GOVERNMENT, TO ANY NONPROFIT CORPORATION OR EDUCATIONAL  
17 INSTITUTION, TO ANY FOR-PROFIT CORPORATION, TO ANY COMMUNITY  
18 DEVELOPMENT AGENCY, OR TO ANY ELIGIBLE APPLICANT, AS DEFINED IN  
19 SECTION 8-83-303 (4), FOR ITS USE IN MITIGATING DIRECT IMPACTS TO  
20 WORKERS AND LOCAL COMMUNITIES RESULTING FROM THE RETIREMENT  
21 OF ELECTRIC GENERATING FACILITIES.

22 (II) THE AUTHORITY SHALL DISBURSE AT LEAST THIRTY PERCENT  
23 OF ALL TRANSITION ASSISTANCE DIRECTLY TO COLORADO WORKERS, AND  
24 THE AUTHORITY SHALL NOT DISBURSE MONEY AS TRANSITION ASSISTANCE  
25 TO THE DEPARTMENT OF LOCAL AFFAIRS OR A LOCAL GOVERNMENT OR  
26 AGENCY OF LOCAL GOVERNMENT IF THE RECEIPT OF THE MONEY WOULD  
27 TRIGGER OR INCREASE THE AMOUNT OF ANY REFUND OF EXCESS STATE OR

1 LOCAL GOVERNMENT REVENUE REQUIRED BY SECTION 20 OF ARTICLE X OF  
2 THE STATE CONSTITUTION, BUT MAY COMPENSATE THE DEPARTMENT OR  
3 A LOCAL GOVERNMENT OR AGENCY OF LOCAL GOVERNMENT FOR SERVICES  
4 CONTRACTED FOR PURSUANT TO SECTION 40-41-201 (3)(i).

5 (2) WHEN DETERMINING HOW BEST TO ADDRESS THE DIRECT  
6 IMPACTS TO A LOCAL COMMUNITY RESULTING FROM THE RETIREMENT OF  
7 ELECTRIC GENERATING FACILITIES AND PROVIDE TRANSITION ASSISTANCE,  
8 THE AUTHORITY SHALL TAKE INTO CONSIDERATION THE ADVICE OF A  
9 LOCAL ADVISORY COMMITTEE, WHICH THE AUTHORITY SHALL ESTABLISH  
10 IN CONJUNCTION WITH EACH BOARD OF COUNTY COMMISSIONERS,  
11 MUNICIPAL GOVERNING BODY, AND SCHOOL DISTRICT THAT INCLUDES ALL  
12 OR A PORTION OF THE IMPACTED COMMUNITY. A LOCAL ADVISORY  
13 COMMITTEE:

14 (a) CONSISTS OF ONE MEMBER APPOINTED BY EACH PARTICIPATING  
15 BOARD OF COUNTY COMMISSIONERS, MUNICIPAL GOVERNING BODY,  
16 SCHOOL DISTRICT, AND LOCAL LABOR UNION FOR AFFECTED WORKERS;

17 (b) SHALL ADVISE THE AUTHORITY WITH RESPECT TO THE NATURE  
18 AND SCOPE OF THE DIRECT IMPACTS TO THE COMMUNITY RESULTING FROM  
19 THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY AND THE  
20 DEVELOPMENT OF A TRANSITION ASSISTANCE PLAN FOR THE COMMUNITY;  
21 AND

22 (c) MAY EITHER BE DISSOLVED BY THE AUTHORITY WHEN THE  
23 TRANSITION ASSISTANCE IS COMPLETED OR MAINTAINED TO ADVISE THE  
24 AUTHORITY REGARDING THE IMPLEMENTATION OF THE TRANSITION  
25 ASSISTANCE.

26 **40-41-203. Voluntary contributions to authority by utilities.**

27 (1) NOTWITHSTANDING THE LIMITATION ON THE USE OF RATEPAYER

1 FUNDS SET FORTH IN SECTION 40-3-114, UPON THE RETIREMENT OF AN  
2 ELECTRIC GENERATING FACILITY, AN ELECTRIC UTILITY MAY, AT ITS SOLE  
3 DISCRETION, TRANSFER TO THE AUTHORITY AN AMOUNT OF UP TO FIFTEEN  
4 PERCENT OF THE NET PRESENT VALUE OF OPERATIONAL SAVINGS CREATED  
5 BY THE RETIREMENT OF THE ELECTRIC GENERATING FACILITY, WHETHER  
6 OR NOT THE ELECTRIC UTILITY HAS OBTAINED A FINANCING ORDER AND  
7 ISSUED CO-EIA BONDS IN CONNECTION WITH THE RETIREMENT OF THE  
8 ELECTRIC GENERATING FACILITY. A DECISION BY A COLORADO ELECTRIC  
9 UTILITY TO TRANSFER A PERCENTAGE OF THE NET PRESENT VALUE OF  
10 OPERATING SAVINGS TO THE AUTHORITY SHALL BE DEEMED BY THE  
11 COMMISSION TO BE A PRUDENT ACTION BY THE UTILITY.

12 (2) FOR PURPOSES OF THIS SECTION, THE NET PRESENT VALUE OF  
13 OPERATIONAL SAVINGS CREATED BY THE RETIREMENT OF AN ELECTRIC  
14 GENERATING FACILITY IS THE NET PRESENT VALUE OF THE ANNUAL  
15 DIFFERENCES BETWEEN THE ESTIMATED COST TO RATEPAYERS OF THE  
16 CONTINUED OPERATION OF THE ELECTRIC GENERATING FACILITY MINUS  
17 THE ESTIMATED COST OF ENERGY GENERATED OR PURCHASED TO REPLACE  
18 THE ENERGY PREVIOUSLY GENERATED BY THE FACILITY.

19 **40-41-204. Reporting to general assembly.** NOTWITHSTANDING  
20 SECTION 24-1-136 (11), FOR ANY FISCAL YEAR IN WHICH THE AUTHORITY  
21 HAS PROVIDED TRANSITION ASSISTANCE, THE AUTHORITY, NO LATER THAN  
22 FEBRUARY 15 OF THE FOLLOWING FISCAL YEAR, SHALL SUBMIT TO THE  
23 JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE FINANCE  
24 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, THE  
25 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF  
26 REPRESENTATIVES, AND THE TRANSPORTATION AND ENERGY COMMITTEE  
27 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT THAT SETS

1 FORTH A COMPLETE AND DETAILED FINANCIAL AND OPERATING  
2 STATEMENT OF THE AUTHORITY DURING THE FISCAL YEAR.

3 **40-41-205. Authority subject to open meetings and open**  
4 **records laws.** THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS  
5 PROVISIONS OF PART 4 OF ARTICLE 6 OF TITLE 24 AND THE "COLORADO  
6 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

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

9 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless  
10 the context otherwise requires:

11 (15) (b) "Special purpose authority" includes, but is not limited to:

12 (XIX) THE COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY  
13 CREATED PURSUANT TO SECTION 40-41-201 (1).

14 **SECTION 3. Act subject to petition - effective date.** This act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly (August  
17 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
18 referendum petition is filed pursuant to section 1 (3) of article V of the  
19 state constitution against this act or an item, section, or part of this act  
20 within such period, then the act, item, section, or part will not take effect  
21 unless approved by the people at the general election to be held in  
22 November 2020 and, in such case, will take effect on the date of the  
23 official declaration of the vote thereon by the governor.