

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0353.02 Jennifer Berman x3286

SENATE BILL 19-236

SENATE SPONSORSHIP

Garcia and Fenberg, Foote, Winter, Fields, Ginal, Gonzales, Moreno, Pettersen,
Rodriguez

HOUSE SPONSORSHIP

(None),

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE PUBLIC UTILITIES**
102 **COMMISSION, AND, IN CONNECTION THEREWITH, IMPLEMENTING**
103 **THE RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET**
104 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND**
105 **MAKING AN APPROPRIATION.**

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/>.)

Sunset Process - Senate Transportation and Energy Committee. The bill implements the recommendations of the department

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.

SENATE
3rd Reading Unamended
April 24, 2019

SENATE
Amended 2nd Reading
April 23, 2019

of regulatory agencies' sunset review and report on the public utilities commission (commission) by:

- ! Authorizing the commission to promulgate rules to delegate routine, administrative transportation matters to staff and clarifying that the commission provides initial review of each case submitted for adjudication and determines whether it wishes to retain the case or to assign it to an administrative law judge or to an individual commissioner (**section 14** of the bill);
- ! Providing for alternate forms of communication that a public utility may utilize to notify its customers of rate changes, including text message and e-mail, and requiring the public utility to post notice of the rate change on its public website (**section 11**);
- ! Transferring the administration of the legal services offset fund from the department of law to the department of regulatory agencies (**section 15**);
- ! Making technical changes regarding criminal history record checks and telecommunications (**sections 17 and 19 through 22**);
- ! Repealing a requirement that an electric utility, as part of the electric utility's plan for acquisition of renewable resources, purchase a certain amount of energy from community solar gardens in the years 2011 through 2013, but delaying the repeal until 2043 to keep the legislation in place until contracts entered into pursuant to the requirement have likely all expired (**section 9**);
- ! Repealing the requirement that the commission, in considering electric utilities' proposals for generation acquisition, give consideration to proposals to propose, fund, and construct integrated gasification combined cycle generation facilities (**section 8**); and
- ! Clarifying that the commission may impose a civil penalty for a violation of railroad crossing safety regulations (**section 13**).

The bill also:

- ! Creates the division of public utilities (division) as if it were transferred by a **type 2** transfer, as a separate entity from the commission (**sections 3 to 7**);
- ! Directs the commission to promulgate rules to require an investor-owned utility to file with the commission, for the commission's approval, a distribution system plan regarding the utility's anticipated distribution system investments (**section 10**);
- ! Requires an investor-owned utility, when submitting a

filing to the commission that includes a proposed retirement of an electric generating facility, to include in the filing a workforce transition plan that provides estimates of workforce transitions that will occur as a result of retiring the electric generating facility (**section 10**);

! Directs the commission to evaluate the cost of carbon dioxide emissions in any proceeding related to a public utility subject to the commission's jurisdiction and to promulgate rules to require those public utilities, when submitting filings related to planning processes, including electric resource plans, to include the cost of carbon dioxide emissions related to the activities proposed in the plan (**section 12**); and

! Authorizes the commission to regulate vehicle booting companies, which are private entities in the business of immobilizing motor vehicles through use of a boot, through issuance of permits and enforcement mechanisms including inspections, imposition of a civil penalty, and revocation of a permit (**sections 16 and 18**).

The bill continues the functions of the commission for and gives the division a life of 7 years, until 2026 (**sections 1 and 2**).

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-2-101, **amend**
3 (3)(b) as follows:

4 **40-2-101. Creation - appointment - term - subject to**
5 **termination - repeal of part.** (3) (b) (I) This part 1 is repealed, effective
6 September 1, ~~2019~~ 2026.

7 (II) ~~Prior to its~~ BEFORE THE repeal, the public utilities commission
8 ~~shall be reviewed as provided for in~~ IS SCHEDULED FOR REVIEW IN
9 ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

10 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
11 (17)(a)(I); and **add** (27)(a)(VIII) as follows:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for repeal, continuation, or reestablishment - legislative**

1 **declaration - repeal.** (17) (a) The following agencies, functions, or both,
2 are scheduled for repeal on September 1, 2019:

3 (I) ~~The Colorado public utilities commission created in article 2~~
4 ~~of title 40, C.R.S.;~~

5 (27) (a) The following agencies, functions, or both, are scheduled
6 for repeal on September 1, 2026:

7 (VIII) THE COLORADO PUBLIC UTILITIES COMMISSION CREATED
8 IN ARTICLE 2 OF TITLE 40.

9

10 **SECTION 3.** In Colorado Revised Statutes, **repeal** 40-2-123 (2).

11 **SECTION 4.** In Colorado Revised Statutes, 40-2-127, **amend**
12 (3)(b) introductory portion; and **add** (5)(a)(III.5) as follows:

13 **40-2-127. Community energy funds - community solar**
14 **gardens - definitions - rules - legislative declaration - repeal.**

15 (3) **Subscriber organization - subscriber qualifications -**
16 **transferability of subscriptions.** (b) ~~On or before October 1, 2010,~~ The
17 commission shall ~~commence a rule-making proceeding to~~ adopt rules as
18 necessary to implement this section, including ~~but not limited to~~ rules to
19 facilitate the financing of subscriber-owned community solar gardens.
20 ~~Such~~ THE rules ~~shall~~ MUST include:

21 (5) **Purchases of the output from community solar gardens.**

22 (a) (III.5) SUBSECTIONS (5)(a)(II) AND (5)(a)(III) OF THIS SECTION AND
23 THIS SUBSECTION (5)(a)(III.5) ARE REPEALED, EFFECTIVE JULY 1, 2043.

24 **SECTION 5.** In Colorado Revised Statutes, **add** 40-2-132 and
25 40-2-133 as follows:

26 **40-2-132. Distribution system planning - definition - rules.**

27 (1) THE COMMISSION SHALL PROMULGATE RULES ESTABLISHING THE

1 FILING OF A DISTRIBUTION SYSTEM PLAN. THE COMMISSION'S RULES MUST:

2 (a) DEFINE THE FOLLOWING TERMS:

3 (I) DISTRIBUTED ENERGY RESOURCES THAT INCLUDE:

4 (A) DISTRIBUTED RENEWABLE ELECTRIC GENERATION;

5 (B) ENERGY STORAGE SYSTEMS CONNECTED TO THE DISTRIBUTION

6 GRID;

7 (C) MICROGRIDS;

8 (D) ENERGY EFFICIENCY MEASURES; AND

9 (E) DEMAND RESPONSE MEASURES; AND

10 (II) NON-WIRES ALTERNATIVES;

11 (b) DEVELOP A METHODOLOGY FOR EVALUATING THE COSTS AND

12 NET BENEFITS OF USING DISTRIBUTED ENERGY RESOURCES AS NON-WIRES

13 ALTERNATIVES;

14 (c) DETERMINE A THRESHOLD FOR THE SIZE OF A NEW

15 DISTRIBUTION PROJECT, WHETHER IN DOLLARS, METERS, OR ANOTHER

16 FACTOR, AS DETERMINED BY THE COMMISSION, FOR WHEN A QUALIFYING

17 RETAIL UTILITY MUST CONSIDER IMPLEMENTATION OR USE OF NON-WIRES

18 ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES

19 UNDER UTILITY PROGRAMS FOR NEW ELECTRIC SERVICE TO ANY PLANNED

20 NEW NEIGHBORHOODS OR HOUSING DEVELOPMENTS;

21 (d) DIRECT EACH QUALIFYING RETAIL UTILITY TO FILE A

22 DISTRIBUTION SYSTEM PLAN;

23 (e) DETERMINE WHAT SHALL BE INCLUDED IN A DISTRIBUTION

24 SYSTEM PLAN, WHICH AT A MINIMUM MUST INCLUDE THE FOLLOWING:

25 (I) INFORMATION REGARDING:

26 (A) SYSTEM AND SUBSTATION HISTORICAL DATA;

27 (B) PEAK DEMAND;

1 (C) ADOPTION OF DISTRIBUTED ENERGY RESOURCES; AND

2 (D) DISTRIBUTION SYSTEM INVESTMENTS;

3 (II) TO PROVIDE NEW ELECTRIC SERVICE TO ANY PLANNED NEW
4 NEIGHBORHOODS OR HOUSING DEVELOPMENTS EXPECTED TO INCLUDE
5 MORE THAN TEN THOUSAND NEW RESIDENCES, A DESCRIPTION OF THE
6 QUALIFYING RETAIL UTILITY'S CONSIDERATION OF NON-WIRES
7 ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES
8 UNDER UTILITY PROGRAMS;

9 (III) AN UPDATED LOAD FORECAST THAT INCLUDES ANY NEW LOAD
10 RESULTING FROM PROJECTED OR FORECASTED GROWTH FROM BENEFICIAL
11 ELECTRIFICATION PROGRAMS;

12 (IV) A FORECAST OF THE GROWTH OF DISTRIBUTED ENERGY
13 RESOURCES FOR THE YEARS COVERED BY THE PLAN;

14 (V) A HIGH-LEVEL SUMMARY OF ITS PLANNING PROCESS FOR
15 ADDRESSING CYBER AND PHYSICAL SECURITY RISKS. AS PART OF THE
16 SUMMARY, THE QUALIFYING RETAIL UTILITY NEED NOT REPORT ANY
17 CONFIDENTIAL, PROPRIETARY, OR OTHER INFORMATION IN THE PLAN THAT
18 COULD IN ANY WAY COMPROMISE OR DECREASE THE QUALIFYING RETAIL
19 UTILITY'S ABILITY TO PREVENT, MITIGATE, OR RECOVER FROM POTENTIAL
20 SYSTEM DISRUPTIONS CAUSED BY WEATHER EVENTS, PHYSICAL EVENTS,
21 OR CYBER ATTACKS.

22 (VI) A PROPOSED COST-RECOVERY METHOD OR MECHANISM FOR
23 ANY NON-WIRES INVESTMENTS FOUND TO BE OUTSIDE THE ORDINARY
24 COURSE OF BUSINESS;

25 (VII) A DESCRIPTION OF THE QUALIFYING RETAIL UTILITY'S
26 ANTICIPATED NEW DISTRIBUTION SYSTEM EXPANSION INVESTMENTS FOR
27 THE YEARS COVERED BY THE PLAN;

1 (VIII) A PROCESS TO EVALUATE THE PLAN'S FEASIBILITY AND THE
2 ECONOMIC IMPACTS OF USING NON-WIRES ALTERNATIVES FOR CERTAIN
3 PROJECTS;

4 (IX) AN ESTIMATE OF THE YEAR IN WHICH PEAK DEMAND GROWTH
5 OR DISTRIBUTED ENERGY RESOURCE GROWTH WOULD MERIT ANALYSIS OF
6 NEW NON-WIRES ALTERNATIVE PROJECTS; AND

7 (X) ANY OTHER INFORMATION THAT THE COMMISSION DEEMS
8 RELEVANT.

9 (2) THE COMMISSION SHALL APPROVE A QUALIFYING RETAIL
10 UTILITY'S INVESTMENT IN NON-WIRES ALTERNATIVES IF THE COMMISSION
11 FINDS THE INVESTMENT TO BE IN THE PUBLIC INTEREST.

12 (3) (a) THE COMMISSION SHALL DETERMINE WHETHER A
13 QUALIFYING RETAIL UTILITY'S RATEPAYERS WOULD REALIZE BENEFITS
14 FROM A NON-WIRES ALTERNATIVE INVESTMENT AND WHETHER THE
15 ASSOCIATED COSTS ARE JUST AND REASONABLE.

16 (b) TO EVALUATE THE SUCCESS OF ANY NON-WIRES ALTERNATIVE
17 INVESTMENT AUTHORIZED PURSUANT TO A QUALIFYING RETAIL UTILITY'S
18 DISTRIBUTION SYSTEM PLAN, THE COMMISSION MAY ADOPT CRITERIA,
19 BENCHMARKS, OR ACCOUNTABILITY MECHANISMS WITH WHICH THE
20 QUALIFYING RETAIL UTILITY MUST COMPLY.

21 (4) AS USED IN THIS SECTION, "QUALIFYING RETAIL UTILITY" HAS
22 THE MEANING DESCRIBED IN SECTION 40-2-124 (1); EXCEPT THAT THE
23 TERM DOES NOT MEAN A MUNICIPALLY OWNED UTILITY OR A COOPERATIVE
24 ELECTRIC ASSOCIATION. _____

25 **40-2-133. Workforce transition planning filing - definition.**

26 (1) A QUALIFYING RETAIL UTILITY REGULATED BY THE COMMISSION THAT
27 SUBMITS A FILING, INCLUDING A RESOURCE PLAN OR APPLICATION, THAT

1 INCLUDES A PROPOSED RETIREMENT OF AN ELECTRIC GENERATING
2 FACILITY SHALL ALSO INCLUDE A WORKFORCE TRANSITION PLAN AS PART
3 OF ITS FILING.

4 (2) TO THE EXTENT PRACTICABLE, A WORKFORCE TRANSITION
5 PLAN MUST INCLUDE ESTIMATES OF:

6 (a) THE NUMBER OF WORKERS EMPLOYED BY THE QUALIFYING
7 RETAIL UTILITY OR A CONTRACTOR OF THE QUALIFYING RETAIL UTILITY AT
8 THE ELECTRIC GENERATING FACILITY, WHICH NUMBER MUST INCLUDE ALL
9 WORKERS THAT DIRECTLY DELIVER FUEL TO THE ELECTRIC GENERATING
10 UTILITY;

11 (b) THE TOTAL NUMBER OF WORKERS WHOSE EXISTING JOBS, AS A
12 RESULT OF THE RETIREMENT OF THE ELECTRIC GENERATING FACILITY:

13 (I) WILL BE RETAINED; AND

14 (II) WILL BE ELIMINATED;

15 (c) WITH RESPECT TO THE WORKERS WHOSE EXISTING JOBS WILL
16 BE ELIMINATED DUE TO THE RETIREMENT OF THE ELECTRIC GENERATING
17 FACILITY, THE TOTAL NUMBER AND THE NUMBER BY JOB CLASSIFICATION
18 OF WORKERS:

19 (I) WHOSE EMPLOYMENT WILL END WITHOUT THEM BEING
20 OFFERED OTHER EMPLOYMENT;

21 (II) WHO WILL RETIRE AS PLANNED, BE OFFERED EARLY
22 RETIREMENT, OR LEAVE ON THEIR OWN;

23 (III) WHO WILL BE RETAINED BY BEING TRANSFERRED TO OTHER
24 ELECTRIC GENERATING FACILITIES OR OFFERED OTHER EMPLOYMENT BY
25 THE QUALIFYING RETAIL UTILITY; AND

26 (IV) WHO WILL BE RETAINED TO CONTINUE TO WORK FOR THE
27 QUALIFYING RETAIL UTILITY IN A NEW JOB CLASSIFICATION; AND

1 (d) IF THE QUALIFYING RETAIL UTILITY IS REPLACING THE ELECTRIC
2 GENERATING FACILITY BEING RETIRED WITH A NEW ELECTRIC GENERATING
3 FACILITY, THE NUMBER OF:

4 (I) WORKERS FROM THE RETIRED ELECTRIC GENERATING FACILITY
5 WHO WILL BE EMPLOYED AT THE NEW ELECTRIC GENERATING FACILITY;
6 AND

7 (II) JOBS AT THE NEW ELECTRIC GENERATING FACILITY THAT WILL
8 BE OUTSOURCED TO CONTRACTORS OR SUBCONTRACTORS.

9 (3) AS USED IN THIS SECTION, "QUALIFYING RETAIL UTILITY" HAS
10 THE MEANING DESCRIBED IN SECTION 40-2-124 (1); EXCEPT THAT THE
11 TERM DOES NOT MEAN A MUNICIPALLY OWNED UTILITY OR A COOPERATIVE
12 ELECTRIC ASSOCIATION.

13 **SECTION 6.** In Colorado Revised Statutes, 40-3-104, **amend**
14 (1)(c)(I) introductory portion, (1)(c)(I)(C), and (1)(c)(I)(D); and **add**
15 (1)(c)(I)(E), (1)(c)(VI), and (1)(c)(VII) as follows:

16 **40-3-104. Changes in rates - notice.** (1) (c) (I) A public utility
17 shall provide the notice required under ~~paragraph (a) of this subsection~~
18 ~~(I)~~ SUBSECTION (1)(a) OF THIS SECTION by filing with the commission and
19 keeping open for public inspection new schedules stating plainly the
20 changes to be made in the schedules then in force and the time when the
21 changes will go into effect. AT THE TIME OF THE PUBLIC UTILITY'S FILING
22 WITH THE COMMISSION, THE PUBLIC UTILITY SHALL POST THE NOTICE ON
23 ITS PUBLIC WEBSITE, INCLUDING A REFERENCE TO THE DOCKET NUMBERS
24 OF RELEVANT RULES OR ADJUDICATORY MATTERS, WHICH POSTING MUST
25 BE CONSPICUOUSLY DISPLAYED ON THE WEBSITE FOR AT LEAST THIRTY
26 DAYS. The commission may require transportation and water utilities to
27 give additional notice in a manner set forth by order or rule. For public

1 utilities other than transportation and water utilities, the commission shall
2 require additional notice prior to an increase or other change in any rate,
3 fare, toll, rental, charge, classification, or service, which additional notice
4 may be made, at the option of the public utility, by any of the following
5 methods:

6 (C) Inclusion of an insert in, OR A CLEAR AND CONSPICUOUS
7 STATEMENT ON, the bill mailed to each affected customer of the public
8 utility during a regular billing cycle not later than the twentieth day of the
9 thirty-day period prior to the effective date of the increase or change; ~~or~~

10 (D) ~~At the request of the public utility, such other manner as the~~
11 ~~commission may prescribe.~~ SUBJECT TO SUBSECTION (1)(c)(VII) OF THIS
12 SECTION, NOT LATER THAN THE TWENTIETH DAY OF THE THIRTY-DAY
13 PERIOD BEFORE THE EFFECTIVE DATE OF THE INCREASE OR CHANGE,
14 SENDING AN E-MAIL OR TEXT MESSAGE TO EACH AFFECTED CUSTOMER OF
15 THE PUBLIC UTILITY FOR WHOM THE UTILITY HAS AN E-MAIL ADDRESS OR
16 A MOBILE TELEPHONE NUMBER; OR

17 (E) AT THE REQUEST OF THE PUBLIC UTILITY, SUCH OTHER MANNER
18 AS THE COMMISSION MAY PRESCRIBE.

19 (VI) A PUBLIC UTILITY THAT PROVIDES ADDITIONAL NOTICE
20 PURSUANT TO SUBSECTION (1)(c)(I) OF THIS SECTION MUST INCLUDE IN
21 THE ADDITIONAL NOTICE:

22 (A) THE PUBLIC UTILITY'S PUBLIC WEBSITE ADDRESS; AND

23 (B) A TOLL-FREE TELEPHONE NUMBER ASSOCIATED WITH THE
24 PUBLIC UTILITY THAT A CUSTOMER MAY CALL FOR ADDITIONAL
25 INFORMATION OR ASSISTANCE. IF A PUBLIC UTILITY SENDS ADDITIONAL
26 NOTICE BY E-MAIL OR TEXT MESSAGE PURSUANT TO SUBSECTION
27 (1)(c)(I)(D) OF THIS SECTION, THE E-MAIL OR TEXT MESSAGE NEED NOT

1 INCLUDE ALL INFORMATION REQUIRED BY THIS SUBSECTION (1)(c)(VI);
2 HOWEVER, THE E-MAIL OR TEXT MESSAGE MUST INCLUDE A LINK TO THE
3 PORTION OF THE PUBLIC UTILITY'S PUBLIC WEBSITE WHERE THAT
4 INFORMATION IS POSTED.

5 (VII) A PUBLIC UTILITY MAY PROVIDE ADDITIONAL NOTICE
6 PURSUANT TO SUBSECTION (1)(c)(I)(D) OF THIS SECTION ONLY IF THE
7 PUBLIC UTILITY PROVIDES ITS CUSTOMERS WITH A MECHANISM BY WHICH
8 A CUSTOMER MAY OPT OUT OF RECEIVING E-MAIL OR TEXT MESSAGE
9 NOTIFICATIONS. FOR ANY CUSTOMER THAT OPTS OUT, THE PUBLIC UTILITY
10 SHALL PROVIDE AN ALTERNATE METHOD OF ADDITIONAL NOTICE
11 AUTHORIZED UNDER SUBSECTION (1)(c)(I) OF THIS SECTION.

12 **SECTION 7. In Colorado Revised Statutes, add 40-3-116 and**
13 **40-3-117 as follows:**

14 **40-3-116. Performance-based rate-making - investigation -**
15 **report - repeal. (1) THE COMMISSION SHALL CONDUCT AN**
16 **INVESTIGATION OF FINANCIAL PERFORMANCE-BASED INCENTIVES AND**
17 **PERFORMANCE-BASED METRIC TRACKING TO IDENTIFY MECHANISMS THAT**
18 **MAY SERVE TO ALIGN REGULATED UTILITY OPERATIONS, EXPENDITURES,**
19 **AND INVESTMENTS WITH PUBLIC BENEFIT GOALS INCLUDING SAFETY,**
20 **RELIABILITY, COST EFFICIENCY, EMISSIONS REDUCTIONS, AND EXPANSION**
21 **OF DISTRIBUTED ENERGY RESOURCES. THE INVESTIGATION, WHICH SHALL**
22 **BE CONDUCTED IN AN INVESTIGATORY PROCEEDING, MUST CONSIST OF A**
23 **REVIEW OF EXISTING AND POTENTIAL METRICS, INCLUDING FUTURE TEST**
24 **YEARS, AND CONSIDERATION OF NEW PERFORMANCE-BASED INCENTIVES.**

25 **(2) (a) WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF**
26 **THIS SECTION, THE COMMISSION SHALL REPORT ITS FINDINGS TO THE**
27 **SENATE TRANSPORTATION AND ENERGY COMMITTEE AND THE HOUSE OF**

1 REPRESENTATIVES ENERGY AND ENVIRONMENT COMMITTEE, OR THEIR
2 SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE THE FOLLOWING:

3 (I) A GENERAL DETERMINATION AS TO WHETHER A TRANSITION TO
4 PERFORMANCE-BASED METRICS REGULATION OF A REGULATED UTILITY
5 WOULD BE NET BENEFICIAL TO THE STATE, IN TERMS OF MEETING STATED
6 OBJECTIVES OF THE COMMISSION AND OTHER RELATED STATUTORY
7 REQUIREMENTS;

8 (II) ACTIONS THAT THE COMMISSION MAY PURSUE TO GUIDE THE
9 CHANGE TO A PERFORMANCE-BASED METRICS REGULATION;

10 (III) DIRECTIVES TO BE GIVEN TO UTILITIES;

11 (IV) A LIST OF TYPES OF FUTURE LITIGATED PROCEEDINGS WITHIN
12 WHICH THE REPORT COULD BE IMPLEMENTED; AND

13 (V) A PROPOSED TIMELINE FOR TRANSITION TO
14 PERFORMANCE-BASED METRICS REGULATION.

15 (b) THE REPORT MAY INCLUDE ANY RECOMMENDATIONS OF
16 LEGISLATION NEEDED TO FULLY REALIZE THE BENEFITS OF
17 PERFORMANCE-BASED METRICS REGULATION, INCLUDING IDENTIFYING
18 ANY EXISTING STATUTE THAT WOULD SERVE AS AN IMPEDIMENT TO
19 REALIZING THE FULL BENEFITS OF A TRANSITION TO PERFORMANCE-BASED
20 METRICS REGULATION AND SUGGESTED RECOMMENDED CHANGES TO THE
21 EXISTING STATUTE.

22 (3) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

23 **40-3-117. Utility retail rates survey - nonadjudicatory**
24 **proceeding - definition - report - repeal.** (1) (a) THE COMMISSION
25 SHALL OPEN A NONADJUDICATORY PROCEEDING TO CONDUCT A SURVEY OF
26 PUBLIC UTILITY RETAIL RATES AND SPECIFICALLY CONSIDER
27 RECOMMENDATIONS THAT WOULD RESULT IN RATE RELIEF IN

1 CERTIFICATED UTILITY TERRITORIES WITH RETAIL RATES MATERIALLY
2 GREATER THAN THE STATE AVERAGE. THE COMMISSION SHALL DETERMINE
3 THE MINIMUM PERCENTAGE BY WHICH A RETAIL RATE THAT EXCEEDS THE
4 STATE AVERAGE RATE QUALIFIES AS A MATERIALLY GREATER RATE.

5 (b) AS USED IN THIS SECTION, "PUBLIC UTILITY" DOES NOT INCLUDE
6 A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION
7 40-9.5-102.

8 (2) THE COMMISSION SHALL HOLD A PUBLIC HEARING WITHIN ANY
9 CERTIFICATED UTILITY TERRITORY DETERMINED TO HAVE A MATERIALLY
10 GREATER RETAIL RATE THAN THE STATE AVERAGE RATE.

11 (3) ON OR BEFORE FEBRUARY 1, 2021, THE COMMISSION SHALL
12 FILE A REPORT WITH THE HOUSE ENERGY AND ENVIRONMENT COMMITTEE
13 AND THE SENATE TRANSPORTATION AND ENERGY COMMITTEE, OR THEIR
14 SUCCESSOR COMMITTEES, DESCRIBING THE SCOPE OF ANALYSIS
15 CONDUCTED, POTENTIAL SOLUTIONS CONSIDERED, AND ANY
16 RECOMMENDATIONS THAT COULD PROVIDE RATE RELIEF TO RATEPAYERS.

17 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

18 **SECTION 8.** In Colorado Revised Statutes, **add** 40-3.2-106 as
19 follows:

20 **40-3.2-106. Costs of pollution in utility planning - definitions**
21 **- rules.** (1) THE COMMISSION SHALL REQUIRE AN ELECTRIC PUBLIC
22 UTILITY SUBJECT TO COMMISSION JURISDICTION TO CONSIDER THE COST OF
23 CARBON DIOXIDE EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4)
24 OF THIS SECTION, WHEN DETERMINING THE COST, BENEFIT, OR NET
25 PRESENT VALUE OF ANY PLAN OR PROPOSAL SUBMITTED IN ONE OF THE
26 FOLLOWING PROCEEDINGS:

27 (a) ELECTRIC RESOURCE PLANS OR ANY UTILITY PLAN OR

1 APPLICATION THAT CONSIDERS OR PROPOSES THE ACQUISITION OF NEW
2 ELECTRIC GENERATING RESOURCES AND HEATING RESOURCES OR THE
3 RETIREMENT OF EXISTING UTILITY GENERATION;

4 (b) APPLICATIONS RELATED TO SECTION 40-2-124;

5 (c) APPLICATIONS RELATED TO SECTION 40-3.2-104; OR

6 (d) A PLAN OR APPLICATION FOR TRANSPORTATION
7 ELECTRIFICATION OR OTHER FORMS OF BENEFICIAL ELECTRIFICATION.

8 (2) IN A PROCEEDING LISTED IN SUBSECTION (1)(a) OF THIS
9 SECTION, A UTILITY SHALL:

10 (a) AT A MINIMUM, MODEL AN OPTIMIZATION OF A BASE CASE
11 PORTFOLIO OF RESOURCES USING THE COST OF CARBON DIOXIDE
12 EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4) OF THIS SECTION.
13 THE COST OF CARBON DIOXIDE EMISSIONS MUST APPLY TO THE
14 EVALUATION OF ALL EXISTING ELECTRIC GENERATION RESOURCES AND
15 HEATING RESOURCES AND TO ANY NEW RESOURCES EVALUATED OR
16 PROPOSED AS PART OF THE RESOURCE MODELING. THE COMMISSION MAY
17 REQUIRE A UTILITY TO FILE OR PROPOSE ADDITIONAL BASE CASES. FOR THE
18 PURPOSE OF DEVELOPING ADDITIONAL OPTIMIZED PORTFOLIOS OR FOR
19 SCENARIO ANALYSIS, THE COMMISSION MAY AMEND ITS RULES TO ALLOW
20 A UTILITY TO USE OTHER COSTS FOR CARBON DIOXIDE EMISSIONS IN
21 ADDITION TO THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH
22 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

23 (b) (I) PRESENT A CALCULATION OF THE NET PRESENT VALUE OF
24 REVENUE REQUIREMENT FOR THE RESOURCES IN EACH OPTIMIZED
25 PORTFOLIO. TO SHOW THE NET PRESENT VALUE OF REVENUE REQUIREMENT
26 THAT WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE
27 PORTFOLIO, IN ADDITION TO PRESENTING THE FULL NET PRESENT VALUE OF

1 REVENUE REQUIREMENT THROUGH A CALCULATION USING THE COST OF
2 CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO SUBSECTION (4) OF
3 THIS SECTION, THE UTILITY SHALL ALSO PRESENT THE FULL NET PRESENT
4 VALUE OF REVENUE REQUIREMENT THROUGH A CALCULATION WITHOUT
5 USING THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO
6 SUBSECTION (4) OF THIS SECTION.

7 (II) IN ADDITION TO THE NET PRESENT VALUE OF REVENUE
8 REQUIREMENT CALCULATIONS REQUIRED IN SUBSECTION (2)(b)(I) OF THIS
9 SECTION, FOR EACH OPTIMIZED MODEL RUN THE UTILITY MUST PROVIDE A
10 PRESENT VALUE CALCULATION SHOWING THE NET PRESENT VALUE OF THE
11 TOTAL COST OF CARBON DIOXIDE EMISSIONS OF EACH PORTFOLIO,
12 CALCULATED BY MULTIPLYING THE TOTAL EMISSIONS OF THAT PORTFOLIO
13 BY THE COST OF CARBON DIOXIDE SET FORTH PURSUANT TO SUBSECTION
14 (4) OF THIS SECTION.

15 (3) IN APPROVING A RESOURCE PLAN, THE COMMISSION SHALL
16 CONSIDER:

17 (a) THE NET PRESENT VALUE OF THE COST OF CARBON DIOXIDE
18 EMISSIONS;

19 (b) THE NET PRESENT VALUE OF REVENUE REQUIREMENTS THAT
20 WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE PORTFOLIO;

21 AND

22 (c) OTHER RELEVANT FACTORS, AS DETERMINED BY THE
23 COMMISSION.

24 (4) THE COMMISSION SHALL BASE THE COST OF CARBON DIOXIDE
25 EMISSIONS ON THE MOST RECENT ASSESSMENT OF THE SOCIAL COST OF
26 CARBON DIOXIDE DEVELOPED BY THE FEDERAL GOVERNMENT. STARTING
27 IN 2020, THE COMMISSION SHALL USE A SOCIAL COST OF CARBON DIOXIDE

1 OF NOT LESS THAN FORTY-SIX DOLLARS PER SHORT TON. THE COMMISSION
2 SHALL MODIFY THE COST OF CARBON DIOXIDE EMISSIONS BASED ON
3 ESCALATION RATES OF THE 2020 BASE COST BY AN AMOUNT THAT IS
4 EQUAL TO OR GREATER THAN THE CENTRAL VALUE ESCALATION RATES
5 ESTABLISHED IN THE TECHNICAL SUPPORT DOCUMENT. WHEN
6 CALCULATING THE COST OF CARBON DIOXIDE EMISSIONS FOR ANY
7 PROCEEDING LISTED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSION
8 SHALL USE THE SAME DISCOUNT RATE AS THAT USED TO DEVELOP THE
9 FEDERAL SOCIAL COST OF CARBON DIOXIDE, AS SET FORTH IN THE
10 TECHNICAL SUPPORT DOCUMENT.

11 (5) THE COMMISSION SHALL APPLY A COST OF CARBON DIOXIDE
12 EMISSIONS TO THE NONENERGY BENEFITS FOR PROGRAMS THAT ARE
13 DEFINED TO BE BENEFICIAL ELECTRIFICATION.

14 (6) AS USED IN THIS SECTION:

15 (a) "BENEFICIAL ELECTRIFICATION" MEANS A UTILITY'S CHANGE IN
16 THE ENERGY SOURCE POWERING AN END USE FROM A NONELECTRIC
17 SOURCE TO AN ELECTRIC SOURCE, INCLUDING TRANSPORTATION, WATER
18 HEATING, SPACE HEATING, OR INDUSTRIAL PROCESSES, IF THE CHANGE:

19 (I) REDUCES SYSTEM COSTS FOR THE UTILITY'S CUSTOMERS;

20 (II) REDUCES NET CARBON DIOXIDE EMISSIONS; OR

21 (III) PROVIDES FOR A MORE EFFICIENT UTILIZATION OF GRID
22 RESOURCES.

23 (b) "TECHNICAL SUPPORT DOCUMENT" MEANS THE 2016
24 TECHNICAL SUPPORT DOCUMENT OF THE FEDERAL INTERAGENCY WORKING
25 GROUP ON SOCIAL COST OF GREENHOUSE GASES, ENTITLED "TECHNICAL
26 UPDATE OF THE SOCIAL COST OF CARBON FOR REGULATORY IMPACT
27 ANALYSIS - UNDER EXECUTIVE ORDER 12866".

1 **SECTION 9.** In Colorado Revised Statutes, 40-4-106, **amend** (1)
2 as follows:

3 **40-4-106. Rules for public safety - crossings - civil fines -**
4 **allocation of expenses.** (1) (a) The commission ~~shall have power~~ MAY,
5 after hearing on its own motion or upon complaint, ~~to make general or~~
6 special orders, PROMULGATE rules, or ~~regulations or otherwise~~ ACT BY
7 OTHER MEANS to require each public utility to maintain and operate its
8 lines, plant, system, equipment, electrical wires, apparatus, tracks, and
9 premises in such A manner as to promote and safeguard the health and
10 safety of its employees, passengers, customers, subscribers, and the public
11 and to require the performance of any other act ~~which~~ THAT the health or
12 safety of its employees, passengers, customers, subscribers, or the public
13 may demand.

14 (b) IF, PURSUANT TO THIS SUBSECTION (1), THE COMMISSION
15 ISSUES AN ORDER OR PROMULGATES A RULE REQUIRING A RAILROAD
16 COMPANY TO COMPLY WITH RAILROAD CROSSING SAFETY REGULATIONS,
17 THE COMMISSION MAY IMPOSE A CIVIL PENALTY PURSUANT TO ARTICLE 7
18 OF THIS TITLE 40, IN AN AMOUNT NOT TO EXCEED THE MAXIMUM AMOUNT
19 SET FORTH IN SECTION 40-7-105 (1), AGAINST A RAILROAD COMPANY THAT
20 FAILS TO COMPLY WITH THE ORDER OR RULE.

21 **SECTION 10.** In Colorado Revised Statutes, 40-6-101, **amend**
22 (2); and **add** (5) as follows:

23 **40-6-101. Proceedings - delegation of duties - rules.**
24 (2) (a) ~~Except as otherwise provided in paragraph (b) of this subsection~~
25 ~~(2)~~; The commission may by order direct that any of its work, business,
26 or functions under any provision of law, except functions vested solely in
27 the commission under this ~~title~~ TITLE 40, be assigned or referred to an

1 individual commissioner or to an administrative law judge to be
2 designated by order for action. ~~thereon, and~~ The commission may by
3 order at any time amend, modify, supplement, or rescind any such
4 assignment or reference. When an individual commissioner or an
5 administrative law judge is unable to act upon any matter ~~so~~ assigned or
6 referred because of absence or other cause, the ~~chairman~~ CHAIR of the
7 commission may designate another commissioner or administrative law
8 judge, as the case may be, to serve temporarily until the commission
9 otherwise orders.

10 (b) Every case submitted to the commission for adjudication ~~shall~~
11 MUST BE HEARD in the first instance, ~~be heard by an administrative law~~
12 ~~judge~~ THE COMMISSION unless, BY RULE, MINUTE ORDER, OR WRITTEN
13 DECISION, the commission ~~by minute order~~, assigns the case to ~~the~~
14 ~~commission~~ AN ADMINISTRATIVE LAW JUDGE or to an individual
15 commissioner for hearing.

16 (5) NOTWITHSTANDING SUBSECTIONS (2) TO (4) OF THIS SECTION,
17 THE COMMISSION MAY PROMULGATE RULES TO AUTHORIZE THE
18 DELEGATION OF ITS ROUTINE ADMINISTRATIVE TRANSPORTATION MATTERS
19 TO COMMISSION STAFF. IF THE COMMISSION PROMULGATES RULES
20 PURSUANT TO THIS SUBSECTION (5), THE COMMISSION SHALL DEFINE IN
21 RULE THE MEANING OF THE TERM "ROUTINE ADMINISTRATIVE
22 TRANSPORTATION MATTER".

23 **SECTION 11.** In Colorado Revised Statutes, 40-7-118, **amend**
24 (1)(a) as follows:

25 **40-7-118. Legal services offset fund - creation - exemption**
26 **from maximum reserve.** (1) (a) The legal services offset fund is hereby
27 created in the state treasury. The fund consists of the civil penalties that

1 are collected and credited to the fund pursuant to section 40-7-112 (1)(b)
2 for violations of article 10.1 of this title 40 or commission rules
3 promulgated pursuant to article 10.1 OF THIS TITLE 40. The money in the
4 fund is continuously appropriated to the department of law REGULATORY
5 AGENCIES for use to offset the costs of legal representation of the staff of
6 the commission in proceedings before the commission concerning the
7 enforcement of article 10.1 of this title 40. The department of law
8 REGULATORY AGENCIES shall use the money in the legal services offset
9 fund ~~only to supplement~~ SUPPORT appropriations made to the department
10 of regulatory agencies that are used for legal representation of the staff of
11 the commission in proceedings concerning the enforcement of article 10.1
12 of this title 40. ~~when the appropriations are insufficient to cover the costs~~
13 ~~of such representation.~~

14 **SECTION 12.** In Colorado Revised Statutes, 40-10.1-101, **add**
15 (22) as follows:

16 **40-10.1-101. Definitions.** As used in this article 10.1, unless the
17 context otherwise requires:

18 (22) "VEHICLE BOOTING COMPANY" MEANS A PRIVATE
19 CORPORATION, PARTNERSHIP, OR SOLE PROPRIETOR IN THE BUSINESS OF
20 IMMOBILIZING A MOTOR VEHICLE THROUGH USE OF A BOOT.

21 **SECTION 13.** In Colorado Revised Statutes, 40-10.1-110,
22 **amend** (1) and (2) as follows:

23 **40-10.1-110. Criminal history record check - rules.** (1) (a) An
24 individual who wishes to drive: A taxicab for a motor carrier that is the
25 holder of a certificate to provide taxicab service issued under part 2 of
26 this article 10.1; a motor vehicle for a motor carrier that is the holder of
27 a permit to operate as a charter bus, children's activity bus, luxury

1 limousine, medicaid client transport, or off-road scenic charter under part
2 3 of this article 10.1; or a motor vehicle for a motor carrier that is the
3 holder of a permit to operate as a large-market taxicab service under part
4 7 of this article 10.1 ~~shall submit a set of his or her~~ MUST HAVE THE
5 INDIVIDUAL'S fingerprints ~~to the commission. The commission shall~~
6 ~~forward the fingerprints to~~ TAKEN BY A LOCAL LAW ENFORCEMENT
7 AGENCY OR ANY THIRD PARTY APPROVED BY the Colorado bureau of
8 investigation for the purpose of obtaining a fingerprint-based criminal
9 history record check.

10 (b) IF AN APPROVED THIRD PARTY TAKES THE INDIVIDUAL'S
11 FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED
12 USING COLORADO BUREAU OF INVESTIGATION-APPROVED LIVESCAN
13 EQUIPMENT. THIRD-PARTY VENDORS SHALL NOT KEEP THE INDIVIDUAL'S
14 INFORMATION FOR MORE THAN THIRTY DAYS UNLESS REQUESTED TO DO SO
15 BY THE INDIVIDUAL. THE INDIVIDUAL SHALL SUBMIT PAYMENT FOR THE
16 FINGERPRINTS AND FOR ACTUAL COSTS OF THE RECORD CHECK AT THE
17 TIME THE FINGERPRINTS ARE SUBMITTED TO THE COLORADO BUREAU OF
18 INVESTIGATION.

19 (c) Upon receipt of fingerprints and payment for the costs, the
20 Colorado bureau of investigation shall conduct a state and national
21 fingerprint-based criminal history record check using records of the
22 Colorado bureau of investigation and the federal bureau of investigation
23 ~~The commission is the authorized agency to receive information~~
24 ~~regarding the result of a national criminal history record check. The~~
25 ~~individual whose fingerprints are checked shall pay the actual costs of the~~
26 ~~state and national fingerprint-based criminal history record check~~ AND
27 SHALL FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK

1 TO THE COMMISSION.

2 (2) An individual whose fingerprints are checked in accordance
3 with subsection (1) of this section may, pending the results of the criminal
4 history record check, drive the motor vehicles for the motor carrier
5 described in subsection (1) of this section for up to ninety days after ~~the~~
6 ~~commission forwards~~ the fingerprints ARE FORWARDED to the Colorado
7 bureau of investigation or until the commission receives the results of the
8 check, whichever occurs first. The commission may temporarily extend
9 the ninety-day period, in accordance with section 24-33.5-412 (7), ~~C.R.S.~~,
10 based on a delay in processing criminal history record checks by the
11 Colorado bureau of investigation or on other exigent circumstances
12 beyond the commission's control. Upon the commission's receipt of the
13 results, the individual may resume driving motor vehicles for the motor
14 carrier described in subsection (1) of this section, so long as the driving
15 does not violate applicable law and does not occur while the individual
16 has a criminal conviction that disqualifies ~~him or her~~ THE INDIVIDUAL
17 from driving a motor vehicle in accordance with subsection (3) of this
18 section.

19 **SECTION 14.** In Colorado Revised Statutes, **add** part 8 to article
20 10.1 of title 40 as follows:

21 PART 8

22 VEHICLE BOOTING COMPANIES

23 **40-10.1-801. Permit requirements - rules.** (1) (a) EFFECTIVE
24 JANUARY 1, 2020, A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE
25 AS A VEHICLE BOOTING COMPANY IN INTRASTATE COMMERCE WITHOUT
26 FIRST HAVING OBTAINED A PERMIT FROM THE COMMISSION IN
27 ACCORDANCE WITH THIS ARTICLE 10.1.

1 (b) A PERSON MAY APPLY FOR A PERMIT UNDER THIS PART 8 TO THE
2 COMMISSION IN THE FORM AND WITH THE INFORMATION AS THE
3 COMMISSION REQUIRES. PERMITS ARE VALID FOR ONE YEAR AFTER THE
4 DATE OF ISSUANCE.

5 (2) THE COMMISSION MAY DENY AN APPLICATION UNDER THIS
6 PART 8 OF A PERSON WHO HAS, WITHIN THE IMMEDIATELY PRECEDING FIVE
7 YEARS, BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO,
8 A FELONY. THE COMMISSION MAY ALSO DENY AN APPLICATION UNDER THIS
9 PART 8 OR REFUSE TO RENEW THE PERMIT OF A VEHICLE BOOTING
10 COMPANY BASED UPON A DETERMINATION THAT THE VEHICLE BOOTING
11 COMPANY OR ANY OF ITS OWNERS, PRINCIPALS, OFFICERS, MEMBERS,
12 PARTNERS, OR DIRECTORS HAS NOT SATISFIED A CIVIL PENALTY ARISING
13 OUT OF ANY ADMINISTRATIVE OR ENFORCEMENT ACTION BROUGHT BY THE
14 COMMISSION.

15 (3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF
16 THIS SECTION AND SECTION 40-10.1-112 (4), THE COMMISSION SHALL
17 ISSUE A PERMIT TO A VEHICLE BOOTING COMPANY UPON COMPLETION OF
18 THE APPLICATION AND THE FILING OF PROOF OF WORKERS' COMPENSATION
19 INSURANCE COVERAGE IN ACCORDANCE WITH THE "WORKERS'
20 COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, AND
21 WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS TITLE 40
22 AND MAY ATTACH TO THE PERMIT AND TO THE EXERCISE OF THE RIGHTS
23 GRANTED BY THE PERMIT ANY RESTRICTIONS, TERMS, AND CONDITIONS,
24 INCLUDING ALTERING THE RATES AND CHARGES OF THE APPLICANT, AS ARE
25 REASONABLY DEEMED NECESSARY FOR THE PROTECTION OF THE PROPERTY
26 OF THE PUBLIC.

27 (b) IF A VEHICLE BOOTING COMPANY VIOLATES THIS ARTICLE 10.1,

1 ANY OTHER APPLICABLE PROVISION OF LAW, OR ANY RULE OR ORDER OF
2 THE COMMISSION ISSUED UNDER THIS ARTICLE 10.1 AND AS A RESULT IS
3 ORDERED BY A COURT OR BY THE COMMISSION TO PAY A FINE OR CIVIL
4 PENALTY THAT THE VEHICLE BOOTING COMPANY SUBSEQUENTLY FAILS TO
5 PAY IN FULL WITHIN THE TIME PRESCRIBED FOR PAYMENT, AND NOT
6 BEFORE THE DECISION IMPOSING THE FINE OR CIVIL PENALTY BECOMES A
7 FINAL DECISION BY THE COMMISSION, THEN:

8 (I) THE VEHICLE BOOTING COMPANY'S PERMIT IS REVOKED
9 IMMEDIATELY; AND

10 (II) THE VEHICLE BOOTING COMPANY, ITS OWNERS, PRINCIPALS,
11 OFFICERS, MEMBERS, PARTNERS, AND DIRECTORS, AND ANY OTHER ENTITY
12 OWNED OR OPERATED BY ONE OR MORE OF THOSE OWNERS, PRINCIPALS,
13 OFFICERS, MEMBERS, PARTNERS, OR DIRECTORS, MAY BE DISQUALIFIED
14 FROM OBTAINING OR RENEWING ANY OPERATING AUTHORITY UNDER THIS
15 TITLE 40 FOR A PERIOD OF FIVE YEARS AFTER THE DATE ON WHICH THE
16 FINE OR CIVIL PENALTY WAS DUE. THE PERIOD OF DISQUALIFICATION
17 PURSUANT TO THIS SUBSECTION (3)(b)(II) IS IN ADDITION TO, AND NOT IN
18 LIEU OF, AND DOES NOT AFFECT, ANY OTHER PENALTY OR PERIOD OF
19 DISQUALIFICATION, INCLUDING THE PERIOD OF DISQUALIFICATION
20 SPECIFIED IN SECTION 40-10.1-112 (4).

21 (c) A VEHICLE BOOTING COMPANY'S FACILITIES AND VEHICLES ARE
22 SUBJECT TO INSPECTION BY THE COMMISSION AND BY AUTHORIZED
23 PERSONNEL OF THE COLORADO STATE PATROL, WHICH AGENCY SHALL
24 PROMPTLY REPORT TO THE COMMISSION CONCERNING ANY VIOLATIONS
25 REVEALED BY AN INSPECTION.

26 (4) THE COMMISSION MAY PROMULGATE RULES AS NECESSARY
27 AND REASONABLE TO IMPLEMENT THIS PART 8, INCLUDING RULES

1 REGARDING SIGNAGE AND DROP FEES.

2 **SECTION 15.** In Colorado Revised Statutes, 40-15-302, **repeal**
3 (5) as follows:

4 **40-15-302. Manner of regulation - rules.** (5) Consistent with
5 section 40-15-301(1), rates for nonoptional operator services must allow
6 the provider of the services the opportunity to earn a just and reasonable
7 return on the associated used and useful investment, including equipment
8 costs incurred to originate the services. The rates shall be set at or below
9 a single statewide benchmark rate as determined by the commission that
10 is applicable to all providers, unless the commission approves a higher
11 rate. The statewide benchmark rate must apply to all nonoptional operator
12 services regardless of whether the services are provided in connection
13 with a local exchange or interexchange telecommunications service. If the
14 commission approves a rate higher than the benchmark rate, and the
15 commission determines that disclosure of the rate to customers is in the
16 public interest, the commission may require the nonoptional operator
17 services provider to orally disclose, to the person responsible for payment
18 of the telephone call, the total charges for the call and that the charges are
19 higher than the benchmark rate. The nonoptional operator services
20 provider shall make the disclosure at no charge to the caller and before
21 the call is connected, allowing the caller to disconnect before incurring
22 any charges. If the commission finds, after notice and opportunity for a
23 hearing, that a nonoptional operator services provider has violated this
24 subsection (5), the commission may, in addition to other enforcement
25 powers as may be authorized in this title, order any regulated
26 telecommunications service provider to block access to the nonoptional
27 operator services provider for all intrastate operator-handled calls. A

1 regulated telecommunications provider that blocks the access of a
2 nonoptional operator services provider in compliance with an order of the
3 commission and incurs attorney fees or costs to defend the action is
4 entitled to recover its costs and attorney fees in each proceeding. The
5 commission shall promulgate rules necessary to implement this
6 subsection (5).

7 **SECTION 16.** In Colorado Revised Statutes, 40-15-401, **amend**
8 (1) introductory portion, (1)(s), and (1)(t); and **add** (1)(u) as follows:

9 **40-15-401. Services, products, and providers exempt from**
10 **regulation - definition.** (1) The following products, services, and
11 providers are exempt from regulation under this ~~article~~ ARTICLE 15 or
12 under the "Public Utilities Law" of the state of Colorado:

13 (s) InterLATA toll, except with respect to interexchange carrier
14 registration under section 40-15-302.5, complaints of unauthorized
15 charges on a subscriber's bill, or complaints of changing a subscriber's
16 service without ~~his or her~~ THE SUBSCRIBER'S consent; **and**

17 (t) IntraLATA toll, except with respect to interexchange carrier
18 registration under section 40-15-302.5, complaints of unauthorized
19 charges on a subscriber's bill, or complaints of changing a subscriber's
20 service without ~~his or her~~ THE SUBSCRIBER'S consent; **AND**

21 (u) **NONOPTIONAL OPERATOR SERVICES.**

22 **SECTION 17.** In Colorado Revised Statutes, 40-15-503, **amend**
23 (2)(h) as follows:

24 **40-15-503. Opening of competitive local exchange market -**
25 **process of negotiation and rule-making - issues to be considered by**
26 **commission - definition.** (2) (h) The commission shall require by rule
27 that any telecommunications service provider required to file temporary

1 interim tariffs pursuant to paragraph (g) of this subsection (2) and, to the
2 extent such a requirement is permissible under federal law, any basic
3 local exchange provider that serves only rural exchanges of ten thousand
4 or fewer access lines and that has received a bona fide request for
5 interconnection shall file advice letters with the commission to place into
6 effect temporary interim tariffs and commission tariffs for unbundled
7 facilities or functions, interconnection, services for resale, or local
8 number portability by such dates certain as the commission may
9 determine by rule.

10 **SECTION 18.** In Colorado Revised Statutes, 40-15-503.5,
11 **amend** (1)(c) as follows:

12 **40-15-503.5. Financial assurance.** (1) The commission may
13 require regulated telecommunications service providers to post a bond or
14 provide other security as a condition of obtaining a certificate,
15 registration, or operating authority, whichever instrument or instruments
16 apply. In setting the amount of the bond or security, the commission may
17 consider the following criteria:

18 (c) The history of the provider's statutory payment obligations,
19 including those to the Colorado high cost support mechanism, the
20 Colorado telephone relay system, and the Colorado ~~fixed~~
21 TELECOMMUNICATIONS utility fund.

22 **SECTION 19.** In Colorado Revised Statutes, 24-38.5-102,
23 **amend** (1)(n) as follows:

24 **24-38.5-102. Colorado energy office - duties and powers -**
25 **definitions.** (1) The Colorado energy office shall:

26 (n) (I) Provide public utilities with reasonable assistance, if
27 requested, in seeking and obtaining support and sponsorship for an IGCC

1 project as defined in section ~~40-2-123 (2)(b)(I)~~, C.R.S., and manage and
2 distribute to the utility some or all of any funds provided by the state or
3 by the United States government to the state for purposes of study or
4 development of an IGCC project. ~~as specified in section 40-2-123 (2)(j)~~,
5 ~~C.R.S.~~

6 (II) AS USED IN THIS SUBSECTION (1)(n), "IGCC PROJECT" MEANS
7 AN IGCC FACILITY THAT:

8 (A) DEMONSTRATES THE USE OF IGCC TECHNOLOGY TO
9 GENERATE ELECTRICITY USING COLORADO OR OTHER WESTERN COAL;

10 (B) DOES NOT EXCEED THREE HUNDRED FIFTY MEGAWATTS
11 NAMEPLATE CAPACITY; EXCEPT THAT IT MAY EXCEED THIS CAPACITY IF
12 THE COLORADO ENERGY OFFICE DETERMINES THAT A LARGER SIZE IS
13 NECESSARY TO OBTAIN THE BENEFITS OF FEDERAL COST-SHARING,
14 FINANCIAL GRANTS OR TAX BENEFITS, OR OTHER FINANCIAL
15 OPPORTUNITIES OR ARRANGEMENTS BENEFITTING THE PROJECT,
16 INCLUDING OPPORTUNITIES TO JOINTLY DEVELOP THE PROJECT WITH
17 OTHER ELECTRIC UTILITIES;

18 (C) DEMONSTRATES THE CAPTURE AND SEQUESTRATION OF A
19 PORTION OF THE PROJECT'S CARBON DIOXIDE EMISSIONS;

20 (D) INCLUDES METHODS AND PROCEDURES TO MONITOR THE FATE
21 OF THE CARBON DIOXIDE CAPTURED AND SEQUESTERED FROM THE
22 FACILITY; AND

23 (E) IS LOCATED IN COLORADO.

24 (III) AS USED IN THIS SUBSECTION (1)(n), "IGCC FACILITY" MEANS
25 AN INTEGRATED GASIFICATION COMBINED CYCLE GENERATION FACILITY
26 THAT CONVERTS COAL TO A GASEOUS FUEL FROM WHICH IMPURITIES ARE
27 REMOVED PRIOR TO COMBUSTION, USES THE GASEOUS FUEL IN A

1 COMBUSTION TURBINE TO PRODUCE ELECTRICITY, AND CAPTURES THE
2 WASTE HEAT FROM THE COMBUSTION TURBINE TO DRIVE A STEAM TURBINE
3 TO PRODUCE MORE ELECTRICITY. AN IGCC FACILITY MAY ALSO USE
4 NATURAL GAS, IN ADDITION TO GASIFIED COAL, AS A FUEL IN THE
5 COMBUSTION TURBINE.

6 **SECTION 20.** In Colorado Revised Statutes, 40-10.1-111,
7 **amend** (1)(c)(I) as follows:

8 **40-10.1-111. Filing, issuance, and annual fees.** (1) A motor
9 carrier shall pay the commission the following fees in amounts prescribed
10 in this section or, if not prescribed in this section, as set administratively
11 by the commission with approval of the executive director of the
12 department of regulatory agencies:

13 (c) (I) The filing fee for a permit to operate under part 4 OR PART
14 8 of this ~~article~~ ARTICLE 10.1 is one hundred fifty dollars.

15 **SECTION 21. Appropriation.** (1) For the 2019-20 state fiscal
16 year, \$467,034 is appropriated to the department of regulatory agencies.
17 This appropriation consists of \$369,433 from the public utilities
18 commission fixed utility fund created in section 40-2-114 (1)(b)(II),
19 C.R.S. and \$97,601 from the public utilities commission motor carrier
20 fund created in section 40-2-110.5 (6), C.R.S. To implement this act, the
21 department may use this appropriation as follows:

22 (a) \$332,502, which consists of \$243,381 from the public utilities
23 commission fixed utility fund and \$89,121 from the public utilities
24 commission motor carrier fund, for use by the public utilities commission
25 for personal services, which amount is based on an assumption that the
26 commission will require an additional 4.0 FTE;

27 (b) \$22,612, which consists of \$14,132 from the public utilities

1 commission fixed utility fund and \$8,480 from the public utilities
2 commission motor carrier fund, for use by the public utilities commission
3 for operating expenses; and

4 (c) \$111,920 from the public utilities commission fixed utility
5 fund for the purchase of legal services.

6 (2) For the 2019-20 state fiscal year, \$111,920 is appropriated to
7 the department of law. This appropriation is from reappropriated funds
8 received from the department of regulatory agencies under subsection
9 (1)(c) of this section and is based on an assumption that the department
10 of law will require an additional 0.6 FTE. To implement this act, the
11 department of law may use this appropriation to provide legal services for
12 the department of regulatory agencies.

13 **SECTION 22. Applicability.** This act applies to conduct
14 occurring, including contracts entered into, on or after the applicable
15 effective date of this act.

16 **SECTION 23. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.