

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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

Hansen and Becker,

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

State, Veterans, & Military Affairs
Finance
Appropriations

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.

HOUSE
Amended 2nd Reading
May 2, 2019

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, 40-2-124, **amend** (1)
12 introductory portion; and repeal (1)(f)(I) as follows:

13 **40-2-124. Renewable energy standards - qualifying retail and**
14 **wholesale utilities - definitions - net metering - legislative declaration.**

15 (1) Each provider of retail electric service in the state of Colorado, other
16 than municipally owned utilities that serve forty thousand customers or
17 fewer, is a qualifying retail utility. Each qualifying retail utility, with the
18 exception of cooperative electric associations that have voted to exempt
19 themselves from commission jurisdiction pursuant to section 40-9.5-104
20 and municipally owned utilities, is subject to the rules established under
21 this ~~article~~ ARTICLE 2 by the commission. No additional regulatory
22 authority is provided to the commission other than that specifically
23 contained in this section. In accordance with article 4 of title 24, ~~C.R.S.~~,
24 the commission shall revise or clarify existing rules to establish the
25 following:

26 (f) Policies for the recovery of costs incurred with respect to these
27 standards for qualifying retail utilities that are subject to rate regulation

1 by the commission. These policies must provide incentives to qualifying
2 retail utilities to invest in eligible energy resources and must include:

3 (I) ~~Allowing a qualifying retail utility to develop and own as~~
4 ~~utility rate-based property up to twenty-five percent of the total new~~
5 ~~eligible energy resources the utility acquires from entering into power~~
6 ~~purchase agreements and from developing and owning resources after~~
7 ~~March 27, 2007, if the new eligible energy resources proposed to be~~
8 ~~developed and owned by the utility can be constructed at reasonable cost~~
9 ~~compared to the cost of similar eligible energy resources available in the~~
10 ~~market. The qualifying retail utility shall be allowed to develop and own~~
11 ~~as utility rate-based property more than twenty-five percent but not more~~
12 ~~than fifty percent of total new eligible energy resources acquired after~~
13 ~~March 27, 2007, if the qualifying retail utility shows that its proposal~~
14 ~~would provide significant economic development, employment, energy~~
15 ~~security, or other benefits to the state of Colorado. The qualifying retail~~
16 ~~utility may develop and own these resources either by itself or jointly with~~
17 ~~other owners, and, if owned jointly, the entire jointly owned resource~~
18 ~~shall count toward the percentage limitations in this subparagraph (I). For~~
19 ~~the resources addressed in this subparagraph (I), the qualifying retail~~
20 ~~utility shall not be required to comply with the competitive bidding~~
21 ~~requirements of the commission's rules; except that nothing in this~~
22 ~~subparagraph (I) shall preclude the qualifying retail utility from bidding~~
23 ~~to own a greater percentage of new eligible energy resources than~~
24 ~~permitted by this subparagraph (I). In addition, nothing in this~~
25 ~~subparagraph (I) shall prevent the commission from waiving, repealing,~~
26 ~~or revising any commission rule in a manner otherwise consistent with~~
27 ~~applicable law.~~

1 **SECTION 5.** In Colorado Revised Statutes, **add 40-2-125.5** as
2 follows:

3 **40-2-125.5. Carbon dioxide emission reductions - goal to**
4 **eliminate by 2050 - legislative declaration - interim targets -**
5 **submission and approval of plans - definitions - cost recovery -**
6 **reports. (1) Legislative declaration.** THE GENERAL ASSEMBLY FINDS
7 AND DECLARES THAT:

8 (a) IT IS A MATTER OF STATEWIDE IMPORTANCE TO PROMOTE THE
9 DEVELOPMENT OF COST-EFFECTIVE CLEAN ENERGY AND NEW
10 TECHNOLOGIES AND REDUCE THE CARBON DIOXIDE EMISSIONS FROM THE
11 COLORADO ELECTRIC GENERATING SYSTEM;

12 (b) THE CREATION OF A LOW-COST, RELIABLE, AND CLEAN
13 ELECTRICITY SYSTEM IS CRITICAL TO ACHIEVING THE LEVEL OF
14 GREENHOUSE GAS EMISSIONS NECESSARY TO AVOID THE WORST IMPACTS
15 OF CLIMATE CHANGE AND ADVANCING A ROBUST AND EFFICIENT
16 LOW-CARBON ECONOMY FOR THE STATE OF COLORADO AND THE NATION;

17 (c) TECHNOLOGY ADVANCEMENT HAS ALREADY ALLOWED
18 COLORADO TO ACHIEVE REDUCTIONS IN CARBON DIOXIDE EMISSIONS FROM
19 THE ELECTRIC UTILITY SECTOR, AND CONTINUED TECHNOLOGY
20 DEVELOPMENT IS KEY TO EXTEND PROGRESS TOWARD A RELIABLE,
21 LOW-COST, CLEAN ENERGY FUTURE;

22 (d) ALTERNATIVE FINANCING MECHANISMS MAY RESULT IN LOWER
23 COSTS TO ELECTRIC UTILITY CUSTOMERS; THEREFORE, IT IS HELPFUL TO
24 PROVIDE ALTERNATIVE FINANCING MECHANISMS THAT UTILITIES MAY USE
25 TO REDUCE THE TOTAL AMOUNT OF COSTS BEING INCLUDED IN CUSTOMER
26 RATES RESULTING FROM ACCELERATING THE RETIREMENT OF ELECTRIC
27 GENERATING FACILITIES; AND

1 (e) A BOLD CLEAN ENERGY POLICY WILL SUPPORT THIS PROGRESS
2 AND ALLOW COLORADANS TO ENJOY THE BENEFITS OF RELIABLE CLEAN
3 ENERGY AT AN AFFORDABLE COST.

4 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
5 OTHERWISE REQUIRES:

6 (a) "CLEAN ENERGY PLAN" MEANS A PLAN FILED BY A QUALIFYING
7 RETAIL UTILITY AS PART OF ITS ELECTRIC RESOURCE PLAN TO REDUCE THE
8 QUALIFYING RETAIL UTILITY'S CARBON DIOXIDE EMISSIONS ASSOCIATED
9 WITH ELECTRICITY SALES TO THE QUALIFYING RETAIL UTILITY'S
10 ELECTRICITY CUSTOMERS BY EIGHTY PERCENT FROM 2005 LEVELS BY
11 2030, AND THAT SEEKS TO ACHIEVE PROVIDING ITS CUSTOMERS WITH
12 ENERGY GENERATED FROM ONE-HUNDRED-PERCENT CLEAN ENERGY
13 RESOURCES BY 2050.

14 (b) "CLEAN ENERGY RESOURCE" MEANS ANY
15 ELECTRICITY-GENERATING TECHNOLOGY THAT GENERATES OR STORES
16 ELECTRICITY WITHOUT EMITTING CARBON DIOXIDE INTO THE ATMOSPHERE.
17 CLEAN ENERGY RESOURCES INCLUDE, WITHOUT LIMITATION, ELIGIBLE
18 ENERGY RESOURCES AS DEFINED IN SECTION 40-2-124 (1)(a).

19 (c) "QUALIFYING RETAIL UTILITY" MEANS A RETAIL UTILITY
20 PROVIDING ELECTRIC SERVICE TO MORE THAN FIVE HUNDRED THOUSAND
21 CUSTOMERS IN THIS STATE OR ANY OTHER ELECTRIC UTILITY THAT OPTS IN
22 PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION.

23 (3) **Clean energy targets.** (a) IN ADDITION TO THE OTHER
24 REQUIREMENTS OF THIS SECTION, A QUALIFYING RETAIL UTILITY SHALL
25 MEET THE FOLLOWING CLEAN ENERGY TARGETS:

26 (I) BY 2030, THE QUALIFYING RETAIL UTILITY SHALL REDUCE THE
27 CARBON DIOXIDE EMISSIONS ASSOCIATED WITH ELECTRICITY SALES TO THE

1 QUALIFYING RETAIL UTILITY'S ELECTRICITY CUSTOMERS BY EIGHTY
2 PERCENT FROM 2005 LEVELS.

3 (II) FOR THE YEARS 2050 AND THEREAFTER, OR SOONER IF
4 PRACTICABLE, THE QUALIFYING RETAIL UTILITY SHALL SEEK TO ACHIEVE
5 THE GOAL OF PROVIDING ITS CUSTOMERS WITH ENERGY GENERATED FROM
6 ONE-HUNDRED-PERCENT CLEAN ENERGY RESOURCES SO LONG AS DOING
7 SO IS TECHNICALLY AND ECONOMICALLY FEASIBLE, IN THE PUBLIC
8 INTEREST, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

9 (III) THE QUALIFYING RETAIL UTILITY SHALL RETIRE RENEWABLE
10 ENERGY CREDITS ESTABLISHED UNDER SECTION 40-2-124 (1)(d), IN THE
11 YEAR GENERATED, BY ANY ELIGIBLE ENERGY RESOURCES USED TO COMPLY
12 WITH THE REQUIREMENTS OF THIS SECTION.

13 (b) ANY OTHER ELECTRIC PUBLIC UTILITY MAY OPT INTO THE FULL
14 TERMS OF THIS ENTIRE SECTION UPON NOTIFICATION TO THE COMMISSION.

15 (4) **Submission and approval of plans.** (a) THE FIRST ELECTRIC
16 RESOURCE PLAN THAT A QUALIFYING RETAIL UTILITY FILES WITH THE
17 COMMISSION AFTER JANUARY 1, 2020, MUST INCLUDE A CLEAN ENERGY
18 PLAN THAT WILL ACHIEVE THE CLEAN ENERGY TARGET SET FORTH IN
19 SUBSECTION (3)(a)(I) OF THIS SECTION AND MAKE PROGRESS TOWARD THE
20 ONE-HUNDRED-PERCENT CLEAN ENERGY GOAL SET FORTH IN SUBSECTION
21 (3)(a)(II) OF THIS SECTION IN ACCORDANCE WITH THE FOLLOWING:

22 (I) THE ELECTRIC RESOURCE PLAN CONTAINING THE CLEAN
23 ENERGY PLAN MUST UTILIZE A RESOURCE ACQUISITION PERIOD THAT
24 EXTENDS THROUGH 2030.

25 (II) THE CLEAN ENERGY PLAN SUBMITTED TO THE COMMISSION
26 MUST SET FORTH A PLAN OF ACTIONS AND INVESTMENTS BY THE
27 QUALIFYING RETAIL UTILITY PROJECTED TO ACHIEVE COMPLIANCE WITH

1 THE CLEAN ENERGY TARGETS IN SUBSECTIONS (3)(a)(I) AND (3)(a)(II) OF
2 THIS SECTION AND THAT RESULT IN AN AFFORDABLE, RELIABLE, AND
3 CLEAN ELECTRIC SYSTEM.

4 (III) IN THE ELECTRIC RESOURCE PLAN THAT INCLUDES THE CLEAN
5 ENERGY PLAN, THE QUALIFYING RETAIL UTILITY SHALL CLEARLY
6 DISTINGUISH BETWEEN THE SET OF RESOURCES NECESSARY TO MEET
7 CUSTOMER DEMANDS IN THE RESOURCE ACQUISITION PERIOD AND THE
8 ADDITIONAL CLEAN ENERGY PLAN ACTIVITIES THAT MAY BE UNDERTAKEN
9 TO MEET THE CLEAN ENERGY TARGET IN SUBSECTION (3)(a)(I) OF THIS
10 SECTION, WHICH MAY CREATE AN ADDITIONAL RESOURCE NEED FOR THE
11 CLEAN ENERGY PLAN. THESE ACTIVITIES MAY INCLUDE RETIREMENT OF
12 EXISTING GENERATING FACILITIES, CHANGES IN SYSTEM OPERATION, OR
13 ANY OTHER NECESSARY ACTIONS.

14 (IV) AFTER CONDUCTING ANY PROCUREMENT PROCESS PURSUANT
15 TO SUBSECTION (5)(b) OF THIS SECTION OR OTHERWISE, THE QUALIFYING
16 RETAIL UTILITY SHALL SET FORTH THE ACTIONS AND INVESTMENTS
17 REQUIRED TO FILL THE ADDITIONAL RESOURCE NEED IDENTIFIED FOR THE
18 CLEAN ENERGY PLAN TO SATISFY THE CLEAN ENERGY TARGET IN
19 SUBSECTION (3)(a)(I) OF THIS SECTION. THESE ACTIONS AND INVESTMENTS
20 MAY INCLUDE DEVELOPMENT OF NEW CLEAN ENERGY RESOURCES,
21 DEVELOPMENT OF NEW TRANSMISSION AND OTHER SUPPORTING
22 INFRASTRUCTURE, AND CLEAN ENERGY RESOURCE ACQUISITIONS. ANY
23 NEW TRANSMISSION DEVELOPMENT IS SUBJECT TO EXISTING COMMISSION
24 AND STAKEHOLDER TRANSMISSION PLANNING PROCESSES, AS APPLICABLE.

25 (V) THE CLEAN ENERGY PLAN MUST DESCRIBE THE EFFECT OF THE
26 ACTIONS AND INVESTMENTS INCLUDED IN THE CLEAN ENERGY PLAN ON
27 THE SAFETY, RELIABILITY, RENEWABLE ENERGY INTEGRATION, AND

1 RESILIENCE OF ELECTRIC SERVICE IN THE STATE OF COLORADO.

2 (VI) THE CLEAN ENERGY PLAN MUST SET FORTH THE PROJECTED
3 COST OF ITS IMPLEMENTATION AND ANTICIPATED REDUCTIONS IN CARBON
4 DIOXIDE AND OTHER EMISSIONS.

5 (VII) IF THE CLEAN ENERGY PLAN INCLUDES ACCELERATED
6 RETIREMENT OF ANY EXISTING GENERATING FACILITIES, THE CLEAN
7 ENERGY PLAN MUST INCLUDE WORKFORCE TRANSITION AND COMMUNITY
8 ASSISTANCE PLANS FOR UTILITY WORKERS IMPACTED BY ANY CLEAN
9 ENERGY PLAN AND A PLAN TO PAY COMMUNITY ASSISTANCE TO ANY
10 LOCAL GOVERNMENT OR SCHOOL DISTRICT, THE VOTERS OF WHICH HAVE
11 APPROVED PROJECTS THE COSTS OF WHICH ARE EXPECTED TO BE PAID FOR
12 FROM PROPERTY TAXES THAT ARE DIRECTLY IMPACTED BY THE
13 ACCELERATED RETIREMENT OF THE ELECTRIC GENERATING FACILITY IN AN
14 AMOUNT EQUAL TO THE COSTS OF THE VOTER-APPROVED PROJECTS THAT
15 WERE EXPECTED TO BE PAID FROM THE REVENUE SOURCES DIRECTLY
16 IMPACTED BY THE ACCELERATED RETIREMENT OF THE PROJECTS,
17 INCLUDING BUT NOT LIMITED TO THE PAYMENT OF BONDS, NOTES, OR
18 OTHER MULTIPLE-FISCAL YEAR OBLIGATIONS OR LEASE PURCHASE
19 AGREEMENTS THAT HAVE BEEN ISSUED OR ENTERED INTO TO PAY THE
20 COSTS OF SUCH PROJECTS. ANY PAYMENT OF COMMUNITY ASSISTANCE
21 SHALL BE REDUCED ON AN EQUIVALENT BASIS TO THE EXTENT THAT
22 PROPERTY TAX IS DERIVED FROM NEW ELECTRIC INFRASTRUCTURE
23 DEVELOPED IN THE SAME IMPACTED COMMUNITY. THE QUALIFYING RETAIL
24 UTILITY MAY PROPOSE A COST-RECOVERY MECHANISM TO RECOVER THE
25 PRUDENTLY INCURRED COSTS OF ANY WORKFORCE TRANSITION AND
26 COMMUNITY ASSISTANCE PLANS, WHILE GIVING DUE CONSIDERATION TO
27 THE IMPACT ON LOW-INCOME CUSTOMERS. THE QUALIFYING RETAIL

1 UTILITY WILL NOT EARN ITS AUTHORIZED RATE OF RETURN ON ANY
2 NONCAPITAL COSTS INCURRED AS PART OF ANY WORKFORCE TRANSITION
3 PLAN. THE WORKFORCE TRANSITION AND COMMUNITY ASSISTANCE PLANS
4 MUST INCLUDE, TO THE EXTENT FEASIBLE, ESTIMATES OF:

5 (A) THE NUMBER OF WORKERS EMPLOYED BY THE UTILITY OR A
6 CONTRACTOR OF THE UTILITY AT THE ELECTRIC GENERATING FACILITY;

7 (B) THE TOTAL NUMBER OF EXISTING WORKERS WITH JOBS THAT
8 WILL BE RETAINED AND THE TOTAL NUMBER OF EXISTING WORKERS WITH
9 JOBS THAT WILL BE ELIMINATED DUE TO THE RETIREMENT OF THE
10 ELECTRIC GENERATING FACILITY;

11 (C) WITH RESPECT TO THE EXISTING WORKERS WITH JOBS THAT
12 WILL BE ELIMINATED DUE TO THE RETIREMENT OF THE ELECTRIC
13 GENERATING FACILITY, THE TOTAL NUMBER AND NUMBER BY JOB
14 CLASSIFICATION OF WORKERS FOR WHOM: EMPLOYMENT WILL END
15 WITHOUT BEING OFFERED OTHER EMPLOYMENT BY THE UTILITY; THE
16 WORKERS WILL RETIRE AS PLANNED, BE OFFERED EARLY RETIREMENT, OR
17 LEAVE VOLUNTARILY; THE WORKERS WILL BE RETAINED BY BEING
18 TRANSFERRED TO OTHER ELECTRIC GENERATING FACILITIES OR OFFERED
19 OTHER EMPLOYMENT BY THE UTILITY; AND THE WORKERS WILL BE
20 RETAINED TO CONTINUE TO WORK FOR THE UTILITY IN A NEW JOB
21 CLASSIFICATION;

22 (D) IF THE UTILITY IS REPLACING THE ELECTRIC GENERATING
23 FACILITY BEING RETIRED WITH A NEW ELECTRIC GENERATING FACILITY:
24 THE NUMBER OF WORKERS FROM THE RETIRED ELECTRIC GENERATING
25 FACILITY THAT WILL BE OFFERED EMPLOYMENT AT THE NEW ELECTRIC
26 GENERATING FACILITY; AND THE NUMBER OF JOBS AT THE NEW ELECTRIC
27 GENERATING FACILITY THAT WILL BE OUTSOURCED TO SUBCONTRACTORS.

1 THE UTILITY SHALL DEVELOP A TRAINING OR APPRENTICESHIP PROGRAM,
2 UNDER THE TERMS OF AN APPLICABLE COLLECTIVE BARGAINING
3 AGREEMENT, IF ANY, FOR THE MAINTENANCE AND OPERATION OF ANY NEW
4 COMBINATION GENERATION AND STORAGE FACILITY OWNED BY THE
5 UTILITY THAT DOES NOT EMIT CARBON DIOXIDE, TO WHICH FACILITY
6 DISPLACED WORKERS MAY TRANSFER AS APPROPRIATE.

7 (VIII) IF THE MINIMUM AMOUNTS OF ELECTRICITY FROM ELIGIBLE
8 ENERGY RESOURCES SET FORTH IN SECTION 40-2-124 (1)(c) ARE
9 SATISFIED, A QUALIFYING RETAIL UTILITY MAY PROPOSE TO USE UP TO
10 ONE-HALF OF THE FUNDS COLLECTED ANNUALLY UNDER SECTION 40-2-124
11 (1)(g), AS WELL AS ANY ACCRUED FUNDS, TO RECOVER THE INCREMENTAL
12 COST OF CLEAN ENERGY RESOURCES AND THEIR DIRECTLY RELATED
13 INTERCONNECTION FACILITIES. THE UTILITY MAY ACCOUNT FOR THESE
14 FUNDS IN CALCULATING THE COST OF THE PLAN.

15 (b) THE DIVISION OF ADMINISTRATION IN THE DEPARTMENT OF
16 PUBLIC HEALTH AND ENVIRONMENT SHALL PARTICIPATE IN ANY
17 PROCEEDING SEEKING APPROVAL OF A CLEAN ENERGY PLAN DEVELOPED
18 BY A QUALIFYING RETAIL UTILITY PURSUANT TO THIS SECTION. THE
19 DIVISION SHALL DESCRIBE THE METHODS OF MEASURING CARBON DIOXIDE
20 EMISSIONS AND SHALL VERIFY THE PROJECTED CARBON DIOXIDE EMISSION
21 REDUCTIONS AS A RESULT OF THE CLEAN ENERGY PLAN.

22 (c) AFTER CONSULTING WITH THE AIR QUALITY CONTROL
23 COMMISSION, THE DIVISION OF ADMINISTRATION SHALL DETERMINE
24 WHETHER A CLEAN ENERGY PLAN AS FILED UNDER THIS SECTION WILL
25 RESULT IN AN EIGHTY-PERCENT REDUCTION, RELATIVE TO 2005 LEVELS,
26 IN CARBON DIOXIDE EMISSIONS FROM THE QUALIFYING RETAIL UTILITY'S
27 COLORADO ELECTRICITY SALES BY 2030 AND IS OTHERWISE CONSISTENT

1 WITH ANY GREENHOUSE GAS EMISSION REDUCTION GOALS ESTABLISHED
2 BY THE STATE OF COLORADO. THE DIVISION SHALL PUBLISH, AND SHALL
3 REPORT TO THE PUBLIC UTILITIES COMMISSION, THE DIVISION'S
4 CALCULATION OF CARBON DIOXIDE EMISSION REDUCTIONS ATTRIBUTABLE
5 TO ANY APPROVED CLEAN ENERGY PLAN. NOTHING IN THE DIVISION'S
6 ENGAGEMENT IN THIS PROCESS SHALL BE CONSTRUED TO DIMINISH OR
7 OVERRIDE THE COMMISSION'S AUTHORITY UNDER THIS TITLE 40.

8 (d) THE COMMISSION SHALL APPROVE THE CLEAN ENERGY PLAN IF
9 THE COMMISSION FINDS IT TO BE IN THE PUBLIC INTEREST AND CONSISTENT
10 WITH THE CLEAN ENERGY TARGET IN SUBSECTION (3)(a)(I) OF THIS
11 SECTION, AND THE COMMISSION MAY MODIFY THE PLAN IF THE
12 MODIFICATION IS NECESSARY TO ENSURE THAT THE PLAN IS IN THE PUBLIC
13 INTEREST. IN EVALUATING WHETHER A CLEAN ENERGY PLAN SUBMITTED
14 TO THE COMMISSION IS IN THE PUBLIC INTEREST, THE COMMISSION SHALL
15 CONSIDER THE FOLLOWING FACTORS, AMONG OTHER RELEVANT FACTORS
16 AS DEFINED BY THE COMMISSION:

17 (I) REDUCTIONS IN CARBON DIOXIDE AND OTHER EMISSIONS THAT
18 WILL BE ACHIEVED THROUGH THE CLEAN ENERGY PLAN AND THE
19 ENVIRONMENTAL AND HEALTH BENEFITS OF THOSE REDUCTIONS;

20 (II) THE FEASIBILITY OF THE CLEAN ENERGY PLAN AND THE CLEAN
21 ENERGY PLAN'S IMPACT ON THE RELIABILITY AND RESILIENCE OF THE
22 ELECTRIC SYSTEM. THE COMMISSION SHALL NOT APPROVE ANY PLAN THAT
23 DOES NOT PROTECT SYSTEM RELIABILITY.

24 (III) WHETHER THE CLEAN ENERGY PLAN WILL RESULT IN A
25 REASONABLE COST TO CUSTOMERS, AS EVALUATED ON A NET PRESENT
26 VALUE BASIS. IN EVALUATING THE COST IMPACTS OF THE CLEAN ENERGY
27 PLAN, THE COMMISSION SHALL CONSIDER THE EFFECT ON CUSTOMERS OF

1 THE PROJECTED COSTS ASSOCIATED WITH THE PLAN AS SET FORTH IN
2 SUBSECTION (4)(a)(VI) OF THIS SECTION AS WELL AS ANY PROJECTED
3 SAVINGS ASSOCIATED WITH THE PLAN, INCLUDING PROJECTED AVOIDED
4 FUEL COSTS.

5 (e) IF THE COMMISSION FINDS THAT APPROVAL OF THE CLEAN
6 ENERGY PLAN IS NOT IN THE PUBLIC INTEREST, OR IF THE COMMISSION
7 MODIFIES THE PLAN, THE UTILITY MAY CHOOSE TO SUBMIT AN AMENDED
8 PLAN TO THE COMMISSION FOR APPROVAL IN LIEU OF HAVING NO PLAN OR
9 IMPLEMENTING THE MODIFIED PLAN. NO CLEAN ENERGY PLAN IS
10 EFFECTIVE WITHOUT COMMISSION APPROVAL.

11 (5) **Regulatory matters. (a) Ensuring retail rate stability.**

12 (I) THE COMMISSION SHALL ESTABLISH A MAXIMUM ELECTRIC RETAIL
13 RATE IMPACT OF ONE AND ONE-HALF PERCENT OF THE TOTAL ELECTRIC
14 BILL ANNUALLY FOR EACH CUSTOMER FOR IMPLEMENTATION OF THE
15 APPROVED ADDITIONAL CLEAN ENERGY PLAN ACTIVITIES, CONSISTENT
16 WITH THIS SUBSECTION (5). NOTHING IN THIS SUBSECTION (5)(a)
17 SUPERSEDES SUBSECTION (3)(a)(I) OF THIS SECTION.

18 (II) A QUALIFYING RETAIL UTILITY SHALL COLLECT REVENUES FOR
19 THE ADDITIONAL CLEAN ENERGY PLAN ACTIVITIES THROUGH A CLEAN
20 ENERGY PLAN REVENUE RIDER ASSESSED ON A PERCENTAGE BASIS ON ALL
21 RETAIL CUSTOMER BILLS, AS DEEMED PRUDENT BY THE COMMISSION. THE
22 REVENUE RIDER MAY BE ESTABLISHED AS EARLY AS THE YEAR FOLLOWING
23 APPROVAL OF A CLEAN ENERGY PLAN BY THE COMMISSION, AND THE
24 QUALIFYING RETAIL UTILITY MAY PROPOSE A COMMENCEMENT DATE AND
25 LEVEL NO GREATER THAN THE MAXIMUM ELECTRIC RETAIL RATE IMPACT.
26 THE REVENUE RIDER SHALL AFFORD THE QUALIFYING RETAIL UTILITY COST
27 RECOVERY TREATMENT UP TO THE MAXIMUM ELECTRIC RETAIL RATE

1 IMPACT UNTIL THE FIRST RATE CASE FOLLOWING THE FINAL
2 IMPLEMENTATION OF THE CLEAN ENERGY PLAN, AT WHICH TIME THE
3 REMAINING COSTS AND SAVINGS ASSOCIATED WITH THE CLEAN ENERGY
4 PLAN WILL BE INCORPORATED INTO BASE RATES. THE QUALIFYING RETAIL
5 UTILITY MAY PROPOSE TO ADJUST THE LEVEL OF THE RETAIL RATE RIDER
6 OVER TIME SO LONG AS IT DOES NOT EXCEED THE MAXIMUM RETAIL RATE
7 IMPACT AND AS DEEMED PRUDENT BY THE COMMISSION. NOTHING IN THIS
8 SUBSECTION (5) AFFECTS THE COMMISSION'S AUTHORITY TO EVALUATE
9 THE PRUDENCE OF COSTS ASSOCIATED WITH APPROVED CLEAN ENERGY
10 PLAN ACTIVITIES.

11 (III) THE CLEAN ENERGY PLAN REVENUE RIDER WILL BE UTILIZED
12 FOR COSTS OF A QUALIFYING RETAIL UTILITY'S CLEAN ENERGY PLAN
13 CAPITAL INVESTMENTS AND OPERATING AND RELATED EXPENSES,
14 EXCLUSIVE OF:

15 (A) FUEL AND TRANSMISSION COSTS;

16 (B) COSTS ASSOCIATED WITH THE CAPITAL INVESTMENTS AND
17 OPERATING AND RELATED EXPENSES WITHIN THE OVERALL APPROVED
18 RESOURCE PORTFOLIO NECESSARY TO FULLY SATISFY THE RESOURCE NEED
19 IDENTIFIED FOR THE ELECTRIC RESOURCE PLAN WITHOUT THE CLEAN
20 ENERGY PLAN;

21 (C) THE INCREMENTAL COSTS OF ELIGIBLE ENERGY RESOURCES
22 RECOVERED WITH FUNDS COLLECTED UNDER SECTION 40-2-124 (1)(g);
23 AND

24 (D) THE INCREMENTAL COSTS OF ANY CLEAN ENERGY RESOURCES
25 AND THEIR DIRECTLY RELATED INTERCONNECTION FACILITIES THAT,
26 SUBJECT TO COMMISSION APPROVAL, ARE RECOVERED WITH FUNDS
27 COLLECTED UNDER SECTION 40-2-124 (1)(g) IN ACCORDANCE WITH

1 SUBSECTION (4)(a)(VIII) OF THIS SECTION. SAVINGS ASSOCIATED WITH
2 THE PLAN WILL RETURN TO CUSTOMERS THROUGH EXISTING RATE RIDERS
3 AND BASE RATE ADJUSTMENTS.

4 (IV) THE CLEAN ENERGY PLAN REVENUE RIDER SHALL AFFORD
5 CUSTOMERS CERTAINTY ON THE MAXIMUM RATE IMPACT OF THE
6 APPROVED ADDITIONAL CLEAN ENERGY PLAN ACTIVITIES THROUGH AT
7 LEAST CALENDAR YEAR 2030. ANNUALLY, THE QUALIFYING RETAIL
8 UTILITY SHALL FILE A REPORT WITH THE COMMISSION INDICATING, AT A
9 MINIMUM:

10 (A) THE AMOUNT OF RIDER COLLECTIONS;

11 (B) THE REVENUE REQUIREMENT ASSOCIATED WITH THE APPROVED
12 ADDITIONAL CLEAN ENERGY PLAN ACTIVITIES TO BE PAID FOR FROM THE
13 RIDER COLLECTIONS;

14 (C) ANY POSITIVE OR NEGATIVE RIDER ACCOUNT BALANCE;

15 (D) INTEREST EXPENSE ASSOCIATED WITH THE REVENUE RIDER
16 BALANCE; AND

17 (E) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

18 (V) IN THE FIRST RATE CASE FOLLOWING THE FINAL
19 IMPLEMENTATION OF THE CLEAN ENERGY PLAN, THE COMMISSION SHALL
20 CONDUCT A FINAL RECONCILIATION OF THE CLEAN ENERGY PLAN REVENUE
21 RIDER AND DETERMINE HOW TO ACCOUNT FOR ANY POSITIVE OR NEGATIVE
22 RIDER BALANCE. IN THE MANNER DETERMINED BY THE COMMISSION, ANY
23 REMAINING POSITIVE BALANCE SHALL BE RETURNED TO CUSTOMERS OR
24 USED TO REDUCE CUSTOMER RATES AND ANY NEGATIVE BALANCE SHALL
25 BE INCORPORATED INTO THE QUALIFYING RETAIL UTILITY'S RATES.

26 (b) THE QUALIFYING RETAIL UTILITY SHALL UTILIZE A
27 COMPETITIVE BIDDING PROCESS, AS DEFINED BY THE COMMISSION IN

1 RULES, TO PROCURE ANY ENERGY RESOURCES TO FILL THE CUMULATIVE
2 RESOURCE NEED DERIVED FROM THE ELECTRIC RESOURCE PLAN AND THE
3 CLEAN ENERGY PLAN IN SUBSECTION (4)(a)(III) OF THIS SECTION. THE
4 COMMISSION SHALL ALLOW THE QUALIFYING RETAIL UTILITY, INCLUSIVE
5 OF ANY OWNERSHIP BY ITS AFFILIATES, TO OWN A TARGET OF FIFTY
6 PERCENT OF THE ENERGY AND CAPACITY ASSOCIATED WITH THE CLEAN
7 ENERGY RESOURCES AND ANY OTHER ENERGY RESOURCES DEVELOPED OR
8 ACQUIRED TO MEET THE RESOURCE NEED, AS WELL AS ALL ASSOCIATED
9 INFRASTRUCTURE, IF THE COMMISSION FINDS THE COST OF UTILITY OR
10 AFFILIATE OWNERSHIP OF THE GENERATION ASSETS COMES AT A
11 REASONABLE COST AND RATE IMPACT. UTILITY OWNERSHIP MAY COME
12 FROM UTILITY OR AFFILIATE SELF-BUILDS, BUILD-TRANSFERS FROM
13 INDEPENDENT POWER PRODUCERS, OR SALES OF EXISTING ASSETS FROM
14 INDEPENDENT POWER PRODUCERS OR SIMILAR COMMERCIAL
15 ARRANGEMENTS. NOTHING IN THIS SUBSECTION (5)(b) ALTERS THE
16 COMMISSION'S AUTHORITY UNDER SUBSECTION (4)(d) OF THIS SECTION.

17 (c) ANY ACTIONS, INCLUDING TRANSMISSION DEVELOPMENT,
18 TAKEN BY THE QUALIFYING RETAIL UTILITY SHALL BE PRESUMED PRUDENT
19 TO THE EXTENT THOSE ACTIONS ARE A PART OF AN APPROVED CLEAN
20 ENERGY PLAN.

21 (d) FOR THE PURPOSES OF THIS SECTION, THE CLEAN ENERGY
22 TARGET EVALUATION WILL BE BASED UPON THE QUALIFYING RETAIL
23 UTILITY'S ELECTRICITY SALES WITHIN ITS ELECTRIC SERVICE TERRITORY AS
24 IT EXISTED ON JANUARY 1, 2019. IN THE EVENT OF A SIGNIFICANT
25 ACQUISITION, THE QUALIFYING RETAIL UTILITY MAY FILE WITHIN ONE
26 YEAR AFTER THE ACQUISITION AN ADDITIONAL CLEAN ENERGY PLAN TO
27 ADDRESS THAT ACQUISITION, AND THE COMMISSION SHALL CONSIDER THE

1 ADDITIONAL CLEAN ENERGY PLAN CONSISTENT WITH THE GOALS OF THIS
2 SECTION.

3 (e) THE COMMISSION MAY, ON ITS OWN MOTION OR UPON
4 APPLICATION BY A QUALIFYING RETAIL UTILITY, AMEND AN APPROVED
5 CLEAN ENERGY PLAN IF AMENDMENT IS NECESSARY TO ENSURE THE
6 RELIABILITY AND RESILIENCY OF THE ELECTRIC SYSTEM. THE COMMISSION
7 MAY REQUIRE THE QUALIFYING RETAIL UTILITY TO PROVIDE SUCH
8 PERIODIC REPORTS ON THE RELIABILITY AND RESILIENCY OF THE ELECTRIC
9 SYSTEM AS IT MAY DEEM APPROPRIATE TO ENSURE THE CLEAN ENERGY
10 PLAN DOES NOT ADVERSELY IMPACT RELIABILITY OR RESILIENCY.

11 (f) THE COMMISSION SHALL CONSIDER AFFECTED COMMUNITIES
12 WITHIN THE FILING QUALIFYING RETAIL UTILITY'S SERVICE TERRITORY
13 WITH A TANGIBLE AND PECUNIARY INTEREST, AND ORGANIZATIONS
14 REPRESENTING THOSE COMMUNITIES SHALL BE PRESUMED TO HAVE
15 STANDING IN A PROCEEDING SEEKING APPROVAL OF ANY CLEAN ENERGY
16 PLAN FILED PURSUANT TO THIS SECTION.

17 (g) (I) A CLEAN ENERGY PLAN VOLUNTARILY FILED BY A
18 MUNICIPAL UTILITY OR A COOPERATIVE ELECTRIC ASSOCIATION THAT HAS
19 VOTED TO EXEMPT ITSELF FROM REGULATION BY THE COMMISSION
20 PURSUANT TO ARTICLE 9.5 OF THIS TITLE 40 SHALL BE DEEMED APPROVED
21 BY THE COMMISSION AS FILED IF:

22 (A) THE DIVISION OF ADMINISTRATION, IN CONSULTATION WITH
23 THE COMMISSION, VERIFIES THAT THE PLAN DEMONSTRATES THAT, BY
24 2030, THE MUNICIPAL UTILITY OR COOPERATIVE ELECTRIC ASSOCIATION
25 WILL ACHIEVE AT LEAST AN EIGHTY PERCENT REDUCTION IN GREENHOUSE
26 GAS EMISSIONS CAUSED BY THE ENTITY'S COLORADO ELECTRICITY SALES
27 RELATIVE TO 2005 LEVELS; AND

1 (B) THE CLEAN ENERGY PLAN HAS PREVIOUSLY BEEN APPROVED
2 BY A VOTE OF THE ENTITY'S GOVERNING BODY.

3 (II) VOLUNTARY SUBMISSION OF A CLEAN ENERGY PLAN BY A
4 MUNICIPAL UTILITY OR A COOPERATIVE ELECTRIC ASSOCIATION DOES NOT
5 ALTER THE ENTITY'S REGULATORY STATUS WITH RESPECT TO THE
6 COMMISSION, INCLUDING UNDER ARTICLE 9.5 OF THIS TITLE 40.

7 (h) NOTHING IN THIS SUBSECTION (5) PRECLUDES THE USE OF
8 BONDS AS A MECHANISM FOR RECOVERING UTILITY CAPITAL IN A RETIRED
9 ELECTRIC GENERATING FACILITY.

10 (6) **Reports.** ONE YEAR AFTER APPROVAL OF ANY ELECTRIC
11 RESOURCE PLAN THAT INCORPORATES A CLEAN ENERGY PLAN, THE
12 QUALIFYING RETAIL UTILITY SHALL PREPARE A REPORT TO THE GOVERNOR,
13 THE GENERAL ASSEMBLY, THE PUBLIC UTILITIES COMMISSION, AND THE AIR
14 QUALITY CONTROL COMMISSION OUTLINING PROGRESS TOWARD THE
15 CLEAN ENERGY TARGETS SET FORTH IN THIS SECTION. THE REPORT MUST
16 SET FORTH THE CLEAN ENERGY RESOURCES DEVELOPED UNDER ANY CLEAN
17 ENERGY PLAN, THE COST AND CUSTOMER IMPACT OF THOSE CLEAN ENERGY
18 RESOURCES, THE EFFECT OF ANY APPROVED CLEAN ENERGY PLAN ON
19 SYSTEM RELIABILITY, AND ANY OTHER RELEVANT INFORMATION. THE
20 REPORT MUST ALSO IDENTIFY THE NEED FOR NEW OR ADDITIONAL
21 TECHNOLOGY DEVELOPMENT NECESSARY TO ACHIEVE THE CLEAN ENERGY
22 TARGETS OF THIS SECTION.

23 (7) **Future electric resource plans.** ANY ELECTRIC RESOURCE
24 PLAN SUBMITTED TO THE COMMISSION AFTER APPROVAL OF THE CLEAN
25 ENERGY PLAN MUST INCLUDE AN UPDATE ON THE PROGRESS MADE
26 TOWARD THE APPROVED CLEAN ENERGY PLAN, AS WELL AS ACTIONS AND
27 INVESTMENTS BY THE QUALIFYING RETAIL UTILITY PROJECTED TO ACHIEVE

1 COMPLIANCE WITH THE EMISSION REDUCTION TARGET IDENTIFIED IN
2 SUBSECTION (3)(a)(I) OF THIS SECTION AND MAKE PROGRESS TOWARD THE
3 ONE-HUNDRED-PERCENT CLEAN ENERGY GOAL SET FORTH IN SUBSECTION
4 (3)(a)(II) OF THIS SECTION. THE COMMISSION MAY SOLICIT INPUT FROM
5 THE DIVISION OF ADMINISTRATION FOR ASSISTANCE IN EVALUATING THE
6 EMISSION REDUCTIONS ASSOCIATED WITH ANY FUTURE ELECTRIC
7 RESOURCE PLAN AND CONSISTENT WITH THE CLEAN ENERGY TARGETS OF
8 THIS SECTION. THE COMMISSION SHALL REVIEW THE QUALIFYING RETAIL
9 UTILITY'S ACTIONS AND INVESTMENTS IN ACCORDANCE WITH THE
10 STANDARDS SET FORTH IN SUBSECTION (4)(d) OF THIS SECTION.

11 **SECTION 6.** 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 7.** In Colorado Revised Statutes, **amend** 40-2-129 as
25 follows:

26 **40-2-129. New resource acquisitions - factors in determination**
27 **- local employment - "best value" metrics.** (1) (a) When evaluating

1 electric resource acquisitions and requests for a certificate of convenience
2 and necessity for construction or expansion of generating facilities,
3 including but not limited to pollution control or fuel conversion upgrades
4 and conversion of existing coal-fired plants to natural gas plants, the
5 commission shall consider, ~~on a qualitative basis, factors that affect~~
6 ~~employment and~~ IN ALL DECISIONS INVOLVED IN ELECTRIC RESOURCE
7 ACQUISITION PROCESSES, BEST VALUE REGARDING EMPLOYMENT OF
8 COLORADO LABOR, AS DEFINED IN SECTION 8-17-101 (2)(a), AND POSITIVE
9 IMPACTS ON the long-term economic viability of Colorado communities.
10 To this end, the commission shall require utilities to ~~request~~ OBTAIN AND
11 PROVIDE TO THE COMMISSION the following information regarding "best
12 value" employment metrics: The availability of training programs,
13 including training through apprenticeship programs registered with the
14 United States department of ~~labor~~, LABOR'S office of apprenticeship and
15 training OR BY STATE APPRENTICESHIP COUNCILS RECOGNIZED BY THAT
16 OFFICE; employment of Colorado ~~workers~~ LABOR as compared to
17 importation of out-of-state workers; long-term career opportunities; and
18 industry-standard wages, health care, and pension benefits. When a utility
19 proposes to construct new facilities of its own, the utility shall supply
20 similar information to the commission.

21 (b) ANY ELECTRIC RESOURCE ACQUISITION DECISION MUST BE
22 BASED IN PART ON REVIEW OF THE BEST VALUE EMPLOYMENT METRICS
23 CRITERIA SET FORTH IN ANY SOLICITATION DOCUMENT. THE COMMISSION
24 SHALL NOT APPROVE ANY ELECTRIC RESOURCE PLAN, ACQUISITION, OR
25 POWER PURCHASE AGREEMENT THAT FAILS TO EITHER:

26 (I) PROVIDE THE BEST VALUE EMPLOYMENT METRICS
27 DOCUMENTATION SPECIFIED IN THE SOLICITATION DOCUMENT; OR

1 (II) IN THE ALTERNATIVE, CERTIFY COMPLIANCE WITH OBJECTIVE
2 BEST VALUE EMPLOYMENT METRICS PERFORMANCE STANDARDS SET FORTH
3 IN THE SOLICITATION DOCUMENT.

4 (c) THE COMMISSION MAY WAIVE THE REQUIREMENTS OF THIS
5 SECTION IF A UTILITY AGREES TO USE A PROJECT LABOR AGREEMENT FOR
6 CONSTRUCTION OR EXPANSION OF A GENERATING FACILITY.

7 (2) FOLLOWING DEVELOPMENT OR ACQUISITION OF A GENERATING
8 FACILITY BY A UTILITY, FOR ALL GENERATING FACILITIES OWNED BY THE
9 UTILITY THAT DO NOT EMIT CARBON DIOXIDE, THE UTILITY SHALL USE
10 UTILITY EMPLOYEES OR QUALIFIED CONTRACTORS IF THE CONTRACTORS'
11 EMPLOYEES HAVE ACCESS TO AN APPRENTICESHIP PROGRAM REGISTERED
12 WITH THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF
13 APPRENTICESHIP AND TRAINING OR BY A STATE APPRENTICESHIP COUNCIL
14 RECOGNIZED BY THAT OFFICE; EXCEPT THAT THIS APPRENTICESHIP
15 REQUIREMENT DOES NOT APPLY TO:

16 (a) THE DESIGN, PLANNING, OR ENGINEERING OF THE
17 INFRASTRUCTURE;

18 (b) MANAGEMENT FUNCTIONS TO OPERATE THE INFRASTRUCTURE;

19 OR

20 (c) ANY WORK INCLUDED IN A WARRANTY.

21 (3) THE PROVISIONS OF THIS SECTION REGARDING BEST VALUE
22 EMPLOYMENT METRICS DO NOT APPLY TO PROJECTS INVOLVING RETAIL
23 DISTRIBUTED GENERATION, AS DEFINED IN SECTION 40-2-124 (1)(a)(VIII)
24 OR 40-2-127(2)(b)(I)(B).

25 **SECTION 8.** In Colorado Revised Statutes, **add** 40-2-132,
26 40-2-133, and 40-2-134 as follows:

27 **40-2-132. Distribution system planning - definition - rules.**

1 (1) THE COMMISSION SHALL PROMULGATE RULES ESTABLISHING THE
2 FILING OF A DISTRIBUTION SYSTEM PLAN. THE COMMISSION'S RULES MUST:

3 (a) DEFINE THE FOLLOWING TERMS:

4 (I) DISTRIBUTED ENERGY RESOURCES THAT INCLUDE:

5 (A) DISTRIBUTED RENEWABLE ELECTRIC GENERATION;

6 (B) ENERGY STORAGE SYSTEMS CONNECTED TO THE DISTRIBUTION

7 GRID;

8 (C) MICROGRIDS;

9 (D) ENERGY EFFICIENCY MEASURES; AND

10 (E) DEMAND RESPONSE MEASURES; AND

11 (II) NON-WIRES ALTERNATIVES;

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

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

14 ALTERNATIVES;

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

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

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

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

19 ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES

20 UNDER UTILITY PROGRAMS FOR NEW ELECTRIC SERVICE TO ANY PLANNED

21 NEW NEIGHBORHOODS OR HOUSING DEVELOPMENTS;

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

23 DISTRIBUTION SYSTEM PLAN;

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

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

26 (I) INFORMATION REGARDING:

27 (A) SYSTEM AND SUBSTATION HISTORICAL DATA;

- 1 (B) PEAK DEMAND;
- 2 (C) ADOPTION OF DISTRIBUTED ENERGY RESOURCES; AND
- 3 (D) DISTRIBUTION SYSTEM INVESTMENTS;
- 4 (II) TO PROVIDE NEW ELECTRIC SERVICE TO ANY PLANNED NEW
- 5 NEIGHBORHOODS OR HOUSING DEVELOPMENTS EXPECTED TO INCLUDE
- 6 MORE THAN TEN THOUSAND NEW RESIDENCES, A DESCRIPTION OF THE
- 7 QUALIFYING RETAIL UTILITY'S CONSIDERATION OF NON-WIRES
- 8 ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES
- 9 UNDER UTILITY PROGRAMS;
- 10 (III) AN UPDATED LOAD FORECAST THAT INCLUDES ANY NEW LOAD
- 11 RESULTING FROM PROJECTED OR FORECASTED GROWTH FROM BENEFICIAL
- 12 ELECTRIFICATION PROGRAMS;
- 13 (IV) A FORECAST OF THE GROWTH OF DISTRIBUTED ENERGY
- 14 RESOURCES FOR THE YEARS COVERED BY THE PLAN;
- 15 (V) A HIGH-LEVEL SUMMARY OF ITS PLANNING PROCESS FOR
- 16 ADDRESSING CYBER AND PHYSICAL SECURITY RISKS. AS PART OF THE
- 17 SUMMARY, THE QUALIFYING RETAIL UTILITY NEED NOT REPORT ANY
- 18 CONFIDENTIAL, PROPRIETARY, OR OTHER INFORMATION IN THE PLAN THAT
- 19 COULD IN ANY WAY COMPROMISE OR DECREASE THE QUALIFYING RETAIL
- 20 UTILITY'S ABILITY TO PREVENT, MITIGATE, OR RECOVER FROM POTENTIAL
- 21 SYSTEM DISRUPTIONS CAUSED BY WEATHER EVENTS, PHYSICAL EVENTS,
- 22 OR CYBER ATTACKS.
- 23 (VI) A PROPOSED COST-RECOVERY METHOD OR MECHANISM FOR
- 24 ANY NON-WIRES INVESTMENTS FOUND TO BE OUTSIDE THE ORDINARY
- 25 COURSE OF BUSINESS;
- 26 (VII) A DESCRIPTION OF THE QUALIFYING RETAIL UTILITY'S
- 27 ANTICIPATED NEW DISTRIBUTION SYSTEM EXPANSION INVESTMENTS FOR

1 THE YEARS COVERED BY THE PLAN;

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

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

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

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

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

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

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

26 **40-2-133. Workforce transition planning filing - definition.**

27 (1) A QUALIFYING RETAIL UTILITY REGULATED BY THE COMMISSION THAT

1 SUBMITS A FILING, INCLUDING A RESOURCE PLAN OR APPLICATION, THAT
2 INCLUDES A PROPOSED RETIREMENT OF AN ELECTRIC GENERATING
3 FACILITY SHALL ALSO INCLUDE A WORKFORCE TRANSITION PLAN AS PART
4 OF ITS FILING.

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

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

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

14 (I) WILL BE RETAINED; AND

15 (II) WILL BE ELIMINATED;

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

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

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

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

27 (IV) WHO WILL BE RETAINED TO CONTINUE TO WORK FOR THE

1 QUALIFYING RETAIL UTILITY IN A NEW JOB CLASSIFICATION; AND

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

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

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

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

14 **40-2-134. Wholesale electric cooperatives - electric resource**
15 **planning - definition - rules.** (1) (a) THE COMMISSION SHALL
16 PROMULGATE RULES THAT REQUIRE EACH WHOLESALE ELECTRIC
17 COOPERATIVE TO SUBMIT TO THE COMMISSION AN APPLICATION FOR
18 APPROVAL OF AN INTEGRATED OR ELECTRIC RESOURCE PLAN. THE
19 COMMISSION SHALL EVALUATE A WHOLESALE ELECTRIC COOPERATIVE
20 PLAN USING RULES THAT THE COMMISSION HAS ADOPTED THAT ARE
21 APPLICABLE TO WHOLESALE ELECTRIC COOPERATIVES.

22 (b) IN DEVELOPING RULES FOR A WHOLESALE ELECTRIC
23 COOPERATIVE, THE COMMISSION MUST CONSIDER, AMONG OTHER FACTORS
24 DETERMINED BY THE COMMISSION, WHETHER EACH ELECTRIC
25 COOPERATIVE:

26 (I) SERVES A MULTISTATE OPERATIONAL JURISDICTION;

27 (II) HAS A NOT-FOR-PROFIT OWNERSHIP STRUCTURE; AND

1 (III) HAS A RESOURCE PLAN THAT MEETS THE ENERGY POLICY
2 GOALS OF THE STATE.

3 (2) AS USED IN THIS SECTION, "WHOLESALE ELECTRIC
4 COOPERATIVE" MEANS ANY GENERATION AND TRANSMISSION
5 COOPERATIVE ELECTRIC ASSOCIATION THAT PROVIDES WHOLESALE
6 ELECTRIC SERVICE DIRECTLY TO COOPERATIVE ELECTRIC ASSOCIATIONS.

7 **SECTION 9.** In Colorado Revised Statutes, **add** 40-2-134 as
8 follows:

9 **40-2-134. Retail distributed generation - customers' rights -**
10 **rules.** A RETAIL ELECTRIC UTILITY CUSTOMER IS ENTITLED TO GENERATE,
11 CONSUME, STORE, AND EXPORT ELECTRICITY PRODUCED FROM ELIGIBLE
12 ENERGY RESOURCES TO THE ELECTRIC GRID THROUGH THE USE OF
13 CUSTOMER-SITED RETAIL DISTRIBUTED GENERATION, AS DEFINED IN
14 SECTION 40-2-124 (1)(a)(VIII), SUBJECT TO RELIABILITY STANDARDS,
15 INTERCONNECTION RULES, AND PROCEDURES, AS DETERMINED BY THE
16 COMMISSION.

17 **SECTION 10.** In Colorado Revised Statutes, 40-3-104, **amend**
18 (1)(c)(I) introductory portion, (1)(c)(I)(C), and (1)(c)(I)(D); and **add**
19 (1)(c)(I)(E), (1)(c)(VI), and (1)(c)(VII) as follows:

20 **40-3-104. Changes in rates - notice.** (1) (c) (I) A public utility
21 shall provide the notice required under ~~paragraph (a) of this subsection~~
22 ~~(†)~~ SUBSECTION (1)(a) OF THIS SECTION by filing with the commission and
23 keeping open for public inspection new schedules stating plainly the
24 changes to be made in the schedules then in force and the time when the
25 changes will go into effect. AT THE TIME OF THE PUBLIC UTILITY'S FILING
26 WITH THE COMMISSION, THE PUBLIC UTILITY SHALL POST THE NOTICE ON
27 ITS PUBLIC WEBSITE, INCLUDING A REFERENCE TO THE DOCKET NUMBERS

1 OF RELEVANT RULES OR ADJUDICATORY MATTERS, WHICH POSTING MUST
2 BE CONSPICUOUSLY DISPLAYED ON THE WEBSITE FOR AT LEAST THIRTY
3 DAYS. The commission may require transportation and water utilities to
4 give additional notice in a manner set forth by order or rule. For public
5 utilities other than transportation and water utilities, the commission shall
6 require additional notice prior to an increase or other change in any rate,
7 fare, toll, rental, charge, classification, or service, which additional notice
8 may be made, at the option of the public utility, by any of the following
9 methods:

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

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

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

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

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

27 (B) A TOLL-FREE TELEPHONE NUMBER ASSOCIATED WITH THE

1 PUBLIC UTILITY THAT A CUSTOMER MAY CALL FOR ADDITIONAL
2 INFORMATION OR ASSISTANCE. IF A PUBLIC UTILITY SENDS ADDITIONAL
3 NOTICE BY E-MAIL OR TEXT MESSAGE PURSUANT TO SUBSECTION
4 (1)(c)(I)(D) OF THIS SECTION, THE E-MAIL OR TEXT MESSAGE NEED NOT
5 INCLUDE ALL INFORMATION REQUIRED BY THIS SUBSECTION (1)(c)(VI);
6 HOWEVER, THE E-MAIL OR TEXT MESSAGE MUST INCLUDE A LINK TO THE
7 PORTION OF THE PUBLIC UTILITY'S PUBLIC WEBSITE WHERE THAT
8 INFORMATION IS POSTED.

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

16 **SECTION 11.** In Colorado Revised Statutes, add 40-3-116 and
17 40-3-117 as follows:

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

1 YEARS, AND CONSIDERATION OF NEW PERFORMANCE-BASED INCENTIVES.

2 (2) (a) WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF
3 THIS SECTION, THE COMMISSION SHALL REPORT ITS FINDINGS TO THE
4 SENATE TRANSPORTATION AND ENERGY COMMITTEE AND THE HOUSE OF
5 REPRESENTATIVES ENERGY AND ENVIRONMENT COMMITTEE, OR THEIR
6 SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE THE FOLLOWING:

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

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

14 (III) DIRECTIVES TO BE GIVEN TO UTILITIES;

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

17 (V) A PROPOSED TIMELINE FOR TRANSITION TO
18 PERFORMANCE-BASED METRICS REGULATION.

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

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

27 **40-3-117. Electric utility retail rates survey - nonadjudicatory**

1 proceeding - definition - report - repeal. (1) (a) THE COMMISSION
2 SHALL OPEN A NONADJUDICATORY PROCEEDING TO CONDUCT A SURVEY OF
3 ELECTRIC PUBLIC UTILITY RETAIL RATES AND SPECIFICALLY CONSIDER
4 RECOMMENDATIONS THAT WOULD RESULT IN RATE RELIEF IN
5 CERTIFICATED ELECTRIC UTILITY TERRITORIES WITH RETAIL RATES
6 MATERIALLY GREATER THAN THE STATE AVERAGE. THE COMMISSION
7 SHALL DETERMINE THE MINIMUM PERCENTAGE BY WHICH A RETAIL RATE
8 THAT EXCEEDS THE STATE AVERAGE RATE QUALIFIES AS A MATERIALLY
9 GREATER RATE.

10 (b) AS USED IN THIS SECTION, "PUBLIC UTILITY" DOES NOT INCLUDE
11 A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION
12 40-9.5-102.

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

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

21 **SECTION 12.** In Colorado Revised Statutes, **add** article 2.3 to
22 title 40 as follows:

23 **ARTICLE 2.3**

24 **Colorado Transmission Coordination Act**

25 **40-2.3-101. Definitions.** AS USED IN THIS ARTICLE 2.3, UNLESS
26 THE CONTEXT OTHERWISE REQUIRES:

27 (1) "ELECTRIC UTILITY" MEANS A PUBLIC UTILITY AS DEFINED IN

1 SECTION 40-1-103.

2 (2) "ENERGY IMBALANCE MARKET" MEANS A REAL-TIME BULK
3 POWER TRADING MARKET THAT PROVIDES A MEANS FOR PARTICIPATING
4 ELECTRIC UTILITIES TO PURCHASE AND SELL UNSCHEDULED ENERGY
5 ACROSS A GEOGRAPHIC REGION.

6 (3) "JOINT TARIFF" MEANS A TARIFF THAT CONTAINS ONLY JOINT
7 RATES, WHICH ARE RATES THAT APPLY FOR TRANSMISSION SERVICE OVER
8 THE LINES OR ROUTES OF TWO OR MORE TRANSMISSION PROVIDERS, MADE
9 BY AN AGREEMENT BETWEEN THE TRANSMISSION PROVIDERS.

10 (4) "POWER POOL" MEANS A SYSTEM OF TRADING WHOLESALE
11 ELECTRICITY THAT DETERMINES WHICH GENERATING SETS OR PLANTS ARE
12 CALLED TO MEET DEMAND FOR POWER AT ANY PARTICULAR TIME AND SETS
13 THE PRICE OF POWER FOR THAT PERIOD.

14 (5) "REGIONAL TRANSMISSION ORGANIZATION" MEANS AN
15 INDEPENDENT ELECTRIC TRANSMISSION OPERATOR THAT PROVIDES
16 WHOLESALE TRANSMISSION SERVICES TO MORE THAN ONE PROVIDER OF
17 ELECTRIC SERVICE WITHIN A GEOGRAPHIC REGION BY POOLING TOGETHER
18 A NUMBER OF TRANSMISSION ASSETS INTO A SINGLE ELECTRICITY
19 TRANSMISSION MARKET FROM WHICH PARTICIPATING ELECTRIC UTILITIES
20 MAY PURCHASE WHOLESALE TRANSMISSION SERVICES.

21 **40-2.3-102. Commission proceeding - evaluate participation**
22 **in energy imbalance market, regional transmission organization,**
23 **power pool, or joint tariff. (1) ON OR BEFORE JANUARY 1, 2020, THE**
24 **COMMISSION SHALL OPEN A PROCEEDING TO INVESTIGATE THE POTENTIAL**
25 **COSTS AND BENEFITS TO ELECTRIC UTILITIES, OTHER GENERATORS, AND**
26 **COLORADO ELECTRIC UTILITY CUSTOMERS THAT WOULD ARISE FROM**
27 **ELECTRIC UTILITIES PARTICIPATING IN ANY ENERGY IMBALANCE MARKETS,**

1 REGIONAL TRANSMISSION ORGANIZATIONS, POWER POOLS, OR JOINT
2 TARIFFS. THE PROCEEDING MUST INCLUDE AN INVESTIGATION OF THE
3 POTENTIAL ADVANTAGES AND DISADVANTAGES OF THESE OPTIONS,
4 INCLUDING THE EFFECT ON:

5 (a) BOTH PARTICIPATING AND NONPARTICIPATING RETAIL AND
6 WHOLESALE COLORADO ELECTRIC SERVICE PROVIDERS;

7 (b) WHOLESALE ELECTRIC ENERGY RATES;

8 (c) TRANSMISSION RATES;

9 (d) RETAIL ELECTRIC ENERGY RATES FOR BOTH PARTICIPATING
10 AND NONPARTICIPATING COLORADO RETAIL ELECTRIC SERVICE
11 PROVIDERS;

12 (e) COMMITMENT AND DISPATCH OF GENERATION AND REAL-TIME
13 DISPATCH OPTIMIZATION OF ENERGY AND ANCILLARY SERVICES;

14 (f) RESERVE MARGIN REQUIREMENTS;

15 (g) SHORT-TERM AND LONG-TERM OPERATIONAL COSTS;

16 (h) REGIONAL INFRASTRUCTURE INVESTMENT IN RESPONSE TO
17 GROWTH IN DEMAND FOR ELECTRIC ENERGY OR CHANGES IN ENERGY
18 PRODUCTION;

19 (i) OPERATING RESERVE PROCUREMENT; AND

20 (j) RENEWABLE ENERGY RESOURCE INTERCONNECTION AND
21 INTEGRATION.

22 (2) ON OR BEFORE JULY 1, 2021, THE COMMISSION SHALL HOLD A
23 HEARING FOR PUBLIC COMMENT TO CONSIDER THE INFORMATION RECEIVED
24 DURING THE COMMISSION'S INVESTIGATION AND DELIBERATE ON WHETHER
25 ELECTRIC UTILITIES SHOULD PARTICIPATE IN AN ENERGY IMBALANCE
26 MARKET, REGIONAL TRANSMISSION ORGANIZATION, POWER POOL, OR JOINT
27 TARIFF.

1 (3) ON OR BEFORE DECEMBER 1, 2021, THE COMMISSION SHALL
2 ISSUE A DECISION DETERMINING WHETHER ELECTRIC UTILITIES
3 PARTICIPATING IN AN ENERGY IMBALANCE MARKET, REGIONAL
4 TRANSMISSION ORGANIZATION, POWER POOL, OR JOINT TARIFF IS IN THE
5 PUBLIC INTEREST.

6 (4) IF THE COMMISSION DETERMINES THAT ELECTRIC UTILITY
7 PARTICIPATION IN AN ENERGY IMBALANCE MARKET, REGIONAL
8 TRANSMISSION ORGANIZATION, POWER POOL, OR JOINT TARIFF IS IN THE
9 PUBLIC INTEREST, THE COMMISSION, ON OR BEFORE JULY 1, 2022, SHALL
10 DIRECT ELECTRIC UTILITIES TO TAKE APPROPRIATE ACTIONS AND CONDUCT
11 SUCH PROCEEDINGS AS THE COMMISSION DEEMS APPROPRIATE TO PURSUE
12 PARTICIPATION IN AN ENERGY IMBALANCE MARKET, REGIONAL
13 TRANSMISSION ORGANIZATION, POWER POOL, OR JOINT TARIFF.

14 **40-2.3-103. Repeal of article.** THIS ARTICLE 2.3 IS REPEALED,
15 EFFECTIVE SEPTEMBER 1, 2022.

16 **SECTION 13.** In Colorado Revised Statutes, **add** 40-3.2-106 as
17 follows:

18 **40-3.2-106. Costs of pollution in utility planning - definitions**
19 **- rules.** (1) THE COMMISSION SHALL REQUIRE AN ELECTRIC PUBLIC
20 UTILITY SUBJECT TO COMMISSION JURISDICTION TO CONSIDER THE COST OF
21 CARBON DIOXIDE EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4)
22 OF THIS SECTION, WHEN DETERMINING THE COST, BENEFIT, OR NET
23 PRESENT VALUE OF ANY PLAN OR PROPOSAL SUBMITTED IN ONE OF THE
24 FOLLOWING PROCEEDINGS:

25 (a) ELECTRIC RESOURCE PLANS OR ANY UTILITY PLAN OR
26 APPLICATION THAT CONSIDERS OR PROPOSES THE ACQUISITION OF NEW
27 ELECTRIC GENERATING RESOURCES OR THE RETIREMENT OF EXISTING

1 UTILITY GENERATION;
2 (b) APPLICATIONS RELATED TO SECTION 40-2-124;
3 (c) APPLICATIONS RELATED TO SECTION 40-3.2-104; OR
4 (d) A PLAN OR APPLICATION FOR TRANSPORTATION
5 ELECTRIFICATION OR OTHER FORMS OF BENEFICIAL ELECTRIFICATION.
6 (2) IN A PROCEEDING LISTED IN SUBSECTION (1)(a) OF THIS
7 SECTION, A UTILITY SHALL:
8 (a) AT A MINIMUM, MODEL AN OPTIMIZATION OF A BASE CASE
9 PORTFOLIO OF RESOURCES USING THE COST OF CARBON DIOXIDE
10 EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4) OF THIS SECTION.
11 THE COST OF CARBON DIOXIDE EMISSIONS MUST APPLY TO THE
12 EVALUATION OF ALL EXISTING ELECTRIC GENERATION RESOURCES AND
13 TO ANY NEW RESOURCES EVALUATED OR PROPOSED AS PART OF THE
14 RESOURCE MODELING. THE COMMISSION MAY REQUIRE A UTILITY TO FILE
15 OR PROPOSE ADDITIONAL BASE CASES. THE UTILITY MAY PROPOSE, AND
16 THE COMMISSION SHALL CONSIDER, ALTERNATIVE OPTIMIZED PORTFOLIOS
17 OF RESOURCES IN ADDITION TO THE BASE CASE, UTILIZING DIFFERENT
18 LEVELS OF COSTS FOR CARBON DIOXIDE.
19 (b) (I) PRESENT A CALCULATION OF THE NET PRESENT VALUE OF
20 REVENUE REQUIREMENT FOR THE RESOURCES IN EACH OPTIMIZED
21 PORTFOLIO. TO SHOW THE NET PRESENT VALUE OF REVENUE REQUIREMENT
22 THAT WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE
23 PORTFOLIO, IN ADDITION TO PRESENTING THE FULL NET PRESENT VALUE OF
24 REVENUE REQUIREMENT THROUGH A CALCULATION USING THE COST OF
25 CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO SUBSECTION (4) OF
26 THIS SECTION, THE UTILITY SHALL ALSO PRESENT THE FULL NET PRESENT
27 VALUE OF REVENUE REQUIREMENT THROUGH A CALCULATION WITHOUT

1 USING THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO
2 SUBSECTION (4) OF THIS SECTION.

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

11 (3) IN APPROVING A RESOURCE PLAN, THE COMMISSION SHALL
12 CONSIDER:

13 (a) THE NET PRESENT VALUE OF THE COST OF CARBON DIOXIDE
14 EMISSIONS;

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

17 AND

18 (c) OTHER RELEVANT FACTORS, AS DETERMINED BY THE
19 COMMISSION.

20 (4) THE COMMISSION SHALL BASE THE COST OF CARBON DIOXIDE
21 EMISSIONS ON THE MOST RECENT ASSESSMENT OF THE SOCIAL COST OF
22 CARBON DIOXIDE DEVELOPED BY THE FEDERAL GOVERNMENT. STARTING
23 IN 2020, THE COMMISSION SHALL USE A SOCIAL COST OF CARBON DIOXIDE
24 OF NOT LESS THAN FORTY-SIX DOLLARS PER SHORT TON. THE COMMISSION
25 SHALL MODIFY THE COST OF CARBON DIOXIDE EMISSIONS BASED ON
26 ESCALATION RATES OF THE 2020 BASE COST BY AN AMOUNT THAT IS
27 EQUAL TO OR GREATER THAN THE CENTRAL VALUE ESCALATION RATES

1 ESTABLISHED IN THE TECHNICAL SUPPORT DOCUMENT. WHEN
2 CALCULATING THE COST OF CARBON DIOXIDE EMISSIONS FOR ANY
3 PROCEEDING LISTED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSION
4 SHALL USE THE SAME DISCOUNT RATE AS THAT USED TO DEVELOP THE
5 FEDERAL SOCIAL COST OF CARBON DIOXIDE, AS SET FORTH IN THE
6 TECHNICAL SUPPORT DOCUMENT. NOTWITHSTANDING THE DISCOUNT RATE
7 USED TO DEVELOP THE SOCIAL COST OF CARBON DIOXIDE VALUE OVER THE
8 PLANNING PERIOD, THE COMMISSION SHALL CONTINUE TO DISCOUNT ANY
9 NET PRESENT VALUE ANALYSIS OF ANY OPTIMIZED RESOURCE PORTFOLIO
10 IN THE ELECTRIC RESOURCE PLANNING PROCESS USING DISCOUNT RATES
11 THAT THE COMMISSION DEEMS APPROPRIATE.

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

15 (6) AS USED IN THIS SECTION:

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

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

21 (II) REDUCES NET CARBON DIOXIDE EMISSIONS; OR

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

24 (b) "TECHNICAL SUPPORT DOCUMENT" MEANS THE 2016
25 TECHNICAL SUPPORT DOCUMENT OF THE FEDERAL INTERAGENCY WORKING
26 GROUP ON SOCIAL COST OF GREENHOUSE GASES, ENTITLED "TECHNICAL
27 UPDATE OF THE SOCIAL COST OF CARBON FOR REGULATORY IMPACT

2 **SECTION 14.** In Colorado Revised Statutes, 40-4-106, **amend**
3 (1) as follows:

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

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

22 **SECTION 15.** In Colorado Revised Statutes, 40-6-101, **amend**
23 (2); and **add** (5) as follows:

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

1 the commission under this ~~title~~ TITLE 40, be assigned or referred to an
2 individual commissioner or to an administrative law judge to be
3 designated by order for action. ~~thereon, and~~ The commission may by
4 order at any time amend, modify, supplement, or rescind any such
5 assignment or reference. When an individual commissioner or an
6 administrative law judge is unable to act upon any matter ~~so~~ assigned or
7 referred because of absence or other cause, the ~~chairman~~ CHAIR of the
8 commission may designate another commissioner or administrative law
9 judge, as the case may be, to serve temporarily until the commission
10 otherwise orders.

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

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

24 **SECTION 16.** In Colorado Revised Statutes, 40-6-109.5, **amend**
25 **(1) and (4) as follows:**

26 **40-6-109.5. Hearings on applications - time limits for**
27 **decisions.** (1) Whenever an application of any kind is filed with the

1 commission and is accompanied by the applicant's supporting testimony
2 or a detailed summary thereof OF THE SUPPORTING TESTIMONY, together
3 with exhibits, if any, the commission shall issue its decision on such THE
4 application no later than one hundred twenty days after the application is
5 deemed complete as prescribed by rules promulgated by the commission.
6 If the commission finds that additional time is required, it may, by
7 separate order, extend the time for decision by an additional period not to
8 exceed ninety ONE HUNDRED THIRTY days.

9 (4) The commission, in particular cases, under extraordinary
10 conditions and after notice and a hearing at which the existence of such
11 EXTRAORDINARY conditions is established, may extend the time limits
12 specified in subsections (1) and (2) of this section for a period not to
13 exceed an additional ninety ONE HUNDRED THIRTY days.

14 **SECTION 17.** In Colorado Revised Statutes, 40-6-111, **amend**
15 (1)(b) as follows:

16 **40-6-111. Hearing on schedules - suspension - new rates -**
17 **rejection of tariffs.** (1) (b) Pending the hearing and decision thereon ON
18 THE HEARING, in the case of a public utility other than a rail carrier, such
19 THE rate, fare, toll, rental, charge, classification, contract, practice, rule,
20 or regulation shall MUST not go into effect; but the period of suspension
21 of such THE rate, fare, toll, rental, charge, classification, contract,
22 practice, rule, or regulation shall MUST not extend beyond one hundred
23 twenty days beyond the time when such THE rate, fare, toll, rental, charge,
24 classification, contract, practice, rule, or regulation would otherwise go
25 into effect unless the commission, in its discretion, and by separate order,
26 extends the period of suspension for a further period not exceeding ninety
27 ONE HUNDRED THIRTY days.

1 **SECTION 18.** In Colorado Revised Statutes, 40-7-118, **amend**
2 (1)(a) as follows:

3 **40-7-118. Legal services offset fund - creation - exemption**
4 **from maximum reserve.** (1) (a) The legal services offset fund is hereby
5 created in the state treasury. The fund consists of the civil penalties that
6 are collected and credited to the fund pursuant to section 40-7-112 (1)(b)
7 for violations of article 10.1 of this title 40 or commission rules
8 promulgated pursuant to article 10.1 OF THIS TITLE 40. The money in the
9 fund is continuously appropriated to the department of law REGULATORY
10 AGENCIES for use to offset the costs of legal representation of the staff of
11 the commission in proceedings before the commission concerning the
12 enforcement of article 10.1 of this title 40. The department of law
13 REGULATORY AGENCIES shall use the money in the legal services offset
14 fund ~~only to supplement~~ SUPPORT appropriations made to the department
15 ~~of regulatory agencies~~ that are used for legal representation of the staff of
16 the commission in proceedings concerning the enforcement of article 10.1
17 of this title 40. ~~when the appropriations are insufficient to cover the costs~~
18 ~~of such representation.~~

19 **SECTION 19.** In Colorado Revised Statutes, 40-10.1-101, **add**
20 (22) as follows:

21 **40-10.1-101. Definitions.** As used in this article 10.1, unless the
22 context otherwise requires:

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

26 **SECTION 20.** In Colorado Revised Statutes, 40-10.1-110,
27 **amend** (1) and (2) as follows:

1 **40-10.1-110. Criminal history record check - rules.** (1) (a) An
2 individual who wishes to drive: A taxicab for a motor carrier that is the
3 holder of a certificate to provide taxicab service issued under part 2 of
4 this article 10.1; a motor vehicle for a motor carrier that is the holder of
5 a permit to operate as a charter bus, children's activity bus, luxury
6 limousine, medicaid client transport, or off-road scenic charter under part
7 3 of this article 10.1; or a motor vehicle for a motor carrier that is the
8 holder of a permit to operate as a large-market taxicab service under part
9 7 of this article 10.1 ~~shall submit a set of his or her~~ MUST HAVE THE
10 INDIVIDUAL'S fingerprints ~~to the commission. The commission shall~~
11 ~~forward the fingerprints to~~ TAKEN BY A LOCAL LAW ENFORCEMENT
12 AGENCY OR ANY THIRD PARTY APPROVED BY the Colorado bureau of
13 investigation for the purpose of obtaining a fingerprint-based criminal
14 history record check.

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

24 (c) Upon receipt of fingerprints and payment for the costs, the
25 Colorado bureau of investigation shall conduct a state and national
26 fingerprint-based criminal history record check using records of the
27 Colorado bureau of investigation and the federal bureau of investigation

1 ~~The commission is the authorized agency to receive information~~
2 ~~regarding the result of a national criminal history record check. The~~
3 ~~individual whose fingerprints are checked shall pay the actual costs of the~~
4 ~~state and national fingerprint-based criminal history record check AND~~
5 ~~SHALL FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK~~
6 ~~TO THE COMMISSION.~~

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

24 **SECTION 21.** In Colorado Revised Statutes, **add** part 8 to article
25 10.1 of title 40 as follows:

26 PART 8

27 VEHICLE BOOTING COMPANIES

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

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

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

20 (3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF
21 THIS SECTION AND SECTION 40-10.1-112 (4), THE COMMISSION SHALL
22 ISSUE A PERMIT TO A VEHICLE BOOTING COMPANY UPON COMPLETION OF
23 THE APPLICATION AND THE FILING OF PROOF OF WORKERS' COMPENSATION
24 INSURANCE COVERAGE IN ACCORDANCE WITH THE "WORKERS'
25 COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, AND
26 WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS TITLE 40
27 AND MAY ATTACH TO THE PERMIT AND TO THE EXERCISE OF THE RIGHTS

1 GRANTED BY THE PERMIT ANY RESTRICTIONS, TERMS, AND CONDITIONS,
2 INCLUDING ALTERING THE RATES AND CHARGES OF THE APPLICANT, AS ARE
3 REASONABLY DEEMED NECESSARY FOR THE PROTECTION OF THE PROPERTY
4 OF THE PUBLIC.

5 (b) IF A VEHICLE BOOTING COMPANY VIOLATES THIS ARTICLE 10.1,
6 ANY OTHER APPLICABLE PROVISION OF LAW, OR ANY RULE OR ORDER OF
7 THE COMMISSION ISSUED UNDER THIS ARTICLE 10.1 AND AS A RESULT IS
8 ORDERED BY A COURT OR BY THE COMMISSION TO PAY A FINE OR CIVIL
9 PENALTY THAT THE VEHICLE BOOTING COMPANY SUBSEQUENTLY FAILS TO
10 PAY IN FULL WITHIN THE TIME PRESCRIBED FOR PAYMENT, AND NOT
11 BEFORE THE DECISION IMPOSING THE FINE OR CIVIL PENALTY BECOMES A
12 FINAL DECISION BY THE COMMISSION, THEN:

13 (I) THE VEHICLE BOOTING COMPANY'S PERMIT IS REVOKED
14 IMMEDIATELY; AND

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

26 (c) A VEHICLE BOOTING COMPANY'S FACILITIES AND VEHICLES ARE
27 SUBJECT TO INSPECTION BY THE COMMISSION AND BY AUTHORIZED

1 PERSONNEL OF THE COLORADO STATE PATROL, WHICH AGENCY SHALL
2 PROMPTLY REPORT TO THE COMMISSION CONCERNING ANY VIOLATIONS
3 REVEALED BY AN INSPECTION.

4 (4) THE COMMISSION MAY PROMULGATE RULES AS NECESSARY
5 AND REASONABLE TO IMPLEMENT THIS PART 8, INCLUDING RULES
6 REGARDING SIGNAGE AND DROP FEES.

7 (5) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
8 VEHICLE BOOTING CASH FUND, REFERRED TO IN THIS SECTION AS THE
9 "FUND", CONSISTING OF ANY FEE REVENUE COLLECTED BY THE
10 COMMISSION PURSUANT TO THIS PART 8 AND TRANSMITTED TO THE STATE
11 TREASURER FOR CREDIT INTO THE FUND AND ANY OTHER MONEY THAT THE
12 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE
13 MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
14 COMMISSION FOR ITS IMPLEMENTATION OF THIS PART 8. THE STATE
15 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
16 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

17 **SECTION 22.** In Colorado Revised Statutes, 40-15-302, **repeal**
18 (5) as follows:

19 **40-15-302. Manner of regulation - rules.** (5) ~~Consistent with~~
20 ~~section 40-15-301(1), rates for nonoptional operator services must allow~~
21 ~~the provider of the services the opportunity to earn a just and reasonable~~
22 ~~return on the associated used and useful investment, including equipment~~
23 ~~costs incurred to originate the services. The rates shall be set at or below~~
24 ~~a single statewide benchmark rate as determined by the commission that~~
25 ~~is applicable to all providers, unless the commission approves a higher~~
26 ~~rate. The statewide benchmark rate must apply to all nonoptional operator~~
27 ~~services regardless of whether the services are provided in connection~~

1 with a local exchange or interexchange telecommunications service. If the
2 commission approves a rate higher than the benchmark rate, and the
3 commission determines that disclosure of the rate to customers is in the
4 public interest, the commission may require the nonoptional operator
5 services provider to orally disclose, to the person responsible for payment
6 of the telephone call, the total charges for the call and that the charges are
7 higher than the benchmark rate. The nonoptional operator services
8 provider shall make the disclosure at no charge to the caller and before
9 the call is connected, allowing the caller to disconnect before incurring
10 any charges. If the commission finds, after notice and opportunity for a
11 hearing, that a nonoptional operator services provider has violated this
12 subsection (5), the commission may, in addition to other enforcement
13 powers as may be authorized in this title, order any regulated
14 telecommunications service provider to block access to the nonoptional
15 operator services provider for all intrastate operator-handled calls. A
16 regulated telecommunications provider that blocks the access of a
17 nonoptional operator services provider in compliance with an order of the
18 commission and incurs attorney fees or costs to defend the action is
19 entitled to recover its costs and attorney fees in each proceeding. The
20 commission shall promulgate rules necessary to implement this
21 subsection (5).

22 **SECTION 23.** In Colorado Revised Statutes, 40-15-401, **amend**
23 (1) introductory portion, (1)(s), and (1)(t); and **add** (1)(u) as follows:

24 **40-15-401. Services, products, and providers exempt from**
25 **regulation - definition.** (1) The following products, services, and
26 providers are exempt from regulation under this ~~article~~ ARTICLE 15 or
27 under the "Public Utilities Law" of the state of Colorado:

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

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

9 (u) NONOPTIONAL OPERATOR SERVICES.

10 **SECTION 24.** In Colorado Revised Statutes, 40-15-503, **amend**
11 (2)(h) as follows:

12 **40-15-503. Opening of competitive local exchange market -**
13 **process of negotiation and rule-making - issues to be considered by**
14 **commission - definition.** (2) (h) The commission shall require by rule
15 that any telecommunications service provider required to file temporary
16 interim tariffs pursuant to ~~paragraph (g) of this subsection (2)~~ and, to the
17 extent such a requirement is permissible under federal law, any basic
18 local exchange provider that serves only rural exchanges of ten thousand
19 or fewer access lines and that has received a bona fide request for
20 interconnection shall file advice letters with the commission to place into
21 effect temporary interim tariffs and commission tariffs for unbundled
22 facilities or functions, interconnection, services for resale, or local
23 number portability by such dates certain as the commission may
24 determine by rule.

25 **SECTION 25.** In Colorado Revised Statutes, 40-15-503.5,
26 **amend** (1)(c) as follows:

27 **40-15-503.5. Financial assurance.** (1) The commission may

1 require regulated telecommunications service providers to post a bond or
2 provide other security as a condition of obtaining a certificate,
3 registration, or operating authority, whichever instrument or instruments
4 apply. In setting the amount of the bond or security, the commission may
5 consider the following criteria:

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

10 **SECTION 26.** In Colorado Revised Statutes, **add** article 41 to
11 title 40 as follows:

12 **ARTICLE 41**

13 **Colorado Energy Impact Bond Act**

14 **40-41-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 41 IS
15 THE "COLORADO ENERGY IMPACT BOND ACT".

16 **40-41-102. Definitions.** AS USED IN THIS ARTICLE 41, UNLESS THE
17 CONTEXT OTHERWISE REQUIRES:

18 (1) "ADJUSTMENT MECHANISM" MEANS A FORMULA-BASED
19 MECHANISM FOR MAKING AUTOMATIC ADJUSTMENTS TO CO-EI CHARGES
20 AUTHORIZED IN A FINANCING ORDER AND FOR MAKING ANY ADJUSTMENTS
21 THAT ARE NECESSARY TO CORRECT FOR OVERCOLLECTION OR
22 UNDERCOLLECTION OF SUCH CHARGES OR OTHERWISE ENSURE THE TIMELY
23 AND COMPLETE PAYMENT OF THE CO-EI BONDS AND ALL FINANCING
24 COSTS.

25 (2) "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-EI BONDS THAT IS DESIGNED TO
3 PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE CO-EI
4 BONDS OR TO MITIGATE THE RISK OF AN INCREASE IN INTEREST RATES.

5 (3) "ASSIGNEE" MEANS ANY PERSON TO WHICH AN INTEREST IN
6 CO-EI 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 (4) "BONDHOLDER" MEANS ANY HOLDER OR OWNER OF CO-EI
10 BONDS.

11 (5) "CO-EI BONDS" MEANS COLORADO ENERGY IMPACT BONDS
12 THAT ARE LOW-COST CORPORATE SECURITIES, SUCH AS SENIOR SECURED
13 BONDS, DEBENTURES, NOTES, CERTIFICATES OF PARTICIPATION,
14 CERTIFICATES OF BENEFICIAL INTEREST, CERTIFICATES OF OWNERSHIP, OR
15 OTHER EVIDENCES OF INDEBTEDNESS OR OWNERSHIP THAT HAVE A
16 SCHEDULED MATURITY DATE AS DETERMINED REASONABLE BY THE
17 COMMISSION BUT NOT LATER THAN THIRTY-TWO YEARS FOLLOWING
18 ISSUANCE, THAT ARE RATED AA OR AA2 OR BETTER BY AT LEAST ONE
19 MAJOR INDEPENDENT CREDIT RATING AGENCY AT THE TIME OF PRICING,
20 AND THAT ARE ISSUED BY AN ELECTRIC UTILITY OR AN ASSIGNEE
21 PURSUANT TO A FINANCING ORDER, THE PROCEEDS OF WHICH ARE USED,
22 DIRECTLY OR INDIRECTLY, TO RECOVER, FINANCE, OR REFINANCE
23 COMMISSION-APPROVED CO-EI COSTS AND FINANCING COSTS.

24 (6) "CO-EI CHARGE" MEANS A CHARGE IN AN AMOUNT
25 AUTHORIZED BY THE COMMISSION IN A FINANCING ORDER IN ORDER TO
26 PROVIDE A SOURCE OF REVENUE SOLELY TO REPAY, FINANCE, OR
27 REFINANCE CO-EI COSTS AND FINANCING COSTS THAT ARE IMPOSED ON

1 AND ARE A PART OF ALL CUSTOMER BILLS AND ARE COLLECTED IN FULL BY
2 THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES, ITS
3 SUCCESSORS OR ASSIGNEES, OR A COLLECTION AGENT THROUGH A
4 NONBYPASSABLE CHARGE THAT IS SEPARATE AND APART FROM THE
5 ELECTRIC UTILITY'S BASE RATES.

6 (7) (a) "CO-EI COSTS" MEANS:

7 (I) (A) AT THE OPTION OF AND UPON PETITION BY AN ELECTRIC
8 UTILITY, AND AS APPROVED BY THE COMMISSION, ANY OF THE PRETAX
9 COSTS THAT THE ELECTRIC UTILITY HAS INCURRED OR WILL INCUR THAT
10 ARE CAUSED BY, ASSOCIATED WITH, OR REMAIN AS A RESULT OF THE
11 RETIREMENT OF AN ELECTRIC GENERATING FACILITY LOCATED IN THE
12 STATE.

13 (B) AS USED IN THIS SUBSECTION (7), "PRETAX COSTS", IF
14 APPROVED BY THE COMMISSION, INCLUDE, BUT ARE NOT LIMITED TO, THE
15 UNRECOVERED CAPITALIZED COST OF A RETIRED ELECTRIC GENERATING
16 FACILITY, COSTS OF DECOMMISSIONING AND RESTORING THE SITE OF THE
17 ELECTRIC GENERATING FACILITY, AND OTHER APPLICABLE CAPITAL AND
18 OPERATING COSTS, ACCRUED CARRYING CHARGES, DEFERRED EXPENSES,
19 REDUCTIONS FOR APPLICABLE INSURANCE AND SALVAGE PROCEEDS AND
20 THE COSTS OF RETIRING ANY EXISTING INDEBTEDNESS, FEES, COSTS, AND
21 EXPENSES TO MODIFY EXISTING DEBT AGREEMENTS OR FOR WAIVERS OR
22 CONSENTS RELATED TO EXISTING DEBT AGREEMENTS.

23 (II) AMOUNTS FOR ASSISTANCE TO AFFECTED WORKERS AND
24 COMMUNITIES IF APPROVED BY THE COMMISSION.

25 (III) PRETAX COSTS THAT AN ELECTRIC UTILITY HAS PREVIOUSLY
26 INCURRED RELATED TO THE COMMISSION-APPROVED CLOSURE OF AN
27 ELECTRIC GENERATING FACILITY OCCURRING BEFORE THE EFFECTIVE DATE

1 OF THIS SECTION.

2 (b) "CO-EI COSTS" DO NOT INCLUDE ANY MONETARY PENALTY,
3 FINE, OR FORFEITURE ASSESSED AGAINST AN ELECTRIC UTILITY BY A
4 GOVERNMENT AGENCY OR COURT UNDER A FEDERAL OR STATE
5 ENVIRONMENTAL STATUTE, RULE, OR REGULATION.

6 (8) "CO-EI PROPERTY" MEANS:

7 (a) ALL RIGHTS AND INTERESTS OF AN ELECTRIC UTILITY OR
8 SUCCESSOR OR ASSIGNEE OF AN ELECTRIC UTILITY UNDER A FINANCING
9 ORDER FOR THE RIGHT TO IMPOSE, BILL, COLLECT, AND RECEIVE CO-EI
10 CHARGES AS IT IS AUTHORIZED TO DO SOLELY UNDER THE FINANCING
11 ORDER AND TO OBTAIN PERIODIC ADJUSTMENTS TO SUCH CO-EI CHARGES
12 AS PROVIDED IN THE FINANCING ORDER; AND

13 (b) ALL REVENUE, COLLECTIONS, CLAIMS, RIGHTS TO PAYMENTS,
14 PAYMENTS, MONEY, OR PROCEEDS ARISING FROM THE RIGHTS AND
15 INTERESTS SPECIFIED IN SUBSECTION (8)(a) OF THIS SECTION, REGARDLESS
16 OF WHETHER SUCH REVENUE, COLLECTIONS, CLAIMS, RIGHTS TO PAYMENT,
17 PAYMENTS, MONEY, OR PROCEEDS ARE IMPOSED, BILLED, RECEIVED,
18 COLLECTED, OR MAINTAINED TOGETHER WITH OR COMMINGLED WITH
19 OTHER REVENUE, COLLECTIONS, RIGHTS TO PAYMENT, PAYMENTS, MONEY,
20 OR PROCEEDS.

21 (9) "CO-EI REVENUE" MEANS ALL REVENUE, RECEIPTS,
22 COLLECTIONS, PAYMENTS, MONEY, CLAIMS, OR OTHER PROCEEDS ARISING
23 FROM CO-EI PROPERTY.

24 (10) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
25 THE STATE OF COLORADO.

26 (11) "CUSTOMER" MEANS A PERSON THAT TAKES ELECTRIC
27 DISTRIBUTION OR ELECTRIC TRANSMISSION SERVICE FROM AN ELECTRIC

1 UTILITY OR ITS SUCCESSORS OR ASSIGNEES UNDER COMMISSION-APPROVED
2 RATE SCHEDULES OR PURSUANT TO SPECIAL CONTRACTS FOR
3 CONSUMPTION OF ELECTRICITY IN THE STATE. THE TERM INCLUDES A
4 CUSTOMER'S SUCCESSORS AND ASSIGNEES.

5 (12) "ELECTRIC UTILITY" MEANS AN ENTITY OPERATING FOR THE
6 PURPOSE OF SUPPLYING ELECTRICITY TO THE PUBLIC FOR DOMESTIC,
7 MECHANICAL, OR PUBLIC USES AND INCLUDES AN INVESTOR-OWNED
8 ELECTRIC UTILITY SUBJECT TO REGULATION UNDER ARTICLES 1 TO 7 OF
9 THIS TITLE 40, A MUNICIPALLY OWNED UTILITY, AND A COOPERATIVE
10 ELECTRIC ASSOCIATION.

11 (13) "FINANCING COSTS" MEANS, IF APPROVED BY THE
12 COMMISSION IN A FINANCING ORDER, COSTS TO ISSUE, SERVICE, REPAY, OR
13 REFINANCE CO-EI BONDS, WHETHER INCURRED OR PAID UPON ISSUANCE
14 OF THE CO-EI BONDS OR OVER THE LIFE OF THE CO-EI BONDS, AND
15 INCLUDES:

16 (a) PRINCIPAL, INTEREST, AND REDEMPTION PREMIUMS THAT ARE
17 PAYABLE ON CO-EI BONDS;

18 (b) ANY PAYMENT REQUIRED UNDER AN ANCILLARY AGREEMENT
19 AND ANY AMOUNT REQUIRED TO FUND OR REPLENISH A RESERVE ACCOUNT
20 OR OTHER ACCOUNTS ESTABLISHED UNDER THE TERMS OF ANY INDENTURE,
21 ANCILLARY AGREEMENT, OR OTHER FINANCING DOCUMENT PERTAINING TO
22 CO-EI BONDS;

23 (c) ANY OTHER COSTS RELATED TO ISSUING, SUPPORTING,
24 REPAYING, REFUNDING, AND SERVICING CO-EI BONDS, INCLUDING, BUT
25 NOT LIMITED TO, SERVICING FEES, ACCOUNTING AND AUDITING FEES,
26 TRUSTEE FEES, LEGAL FEES, CONSULTING FEES, FINANCIAL ADVISOR FEES,
27 ADMINISTRATIVE FEES, PLACEMENT AND UNDERWRITING FEES,

1 CAPITALIZED INTEREST, RATING AGENCY FEES, STOCK EXCHANGE LISTING
2 AND COMPLIANCE FEES, SECURITY REGISTRATION FEES, FILING FEES,
3 INFORMATION TECHNOLOGY PROGRAMMING COSTS, AND ANY OTHER
4 DEMONSTRABLE COSTS NECESSARY TO OTHERWISE ENSURE AND
5 GUARANTEE THE TIMELY PAYMENT OF CO-EI BONDS OR OTHER AMOUNTS
6 OR CHARGES PAYABLE IN CONNECTION WITH CO-EI BONDS;

7 (d) ANY TAXES AND LICENSE FEES IMPOSED ON THE REVENUE
8 GENERATED FROM THE COLLECTION OF A CO-EI CHARGE;

9 (e) ANY STATE AND LOCAL TAXES, INCLUDING FRANCHISE, SALES
10 AND USE, AND OTHER TAXES OR SIMILAR CHARGES, INCLUDING, BUT NOT
11 LIMITED TO, REGULATORY ASSESSMENT FEES, WHETHER PAID, PAYABLE,
12 OR ACCRUED; AND

13 (f) ANY COSTS INCURRED BY AN ELECTRIC UTILITY TO PAY THE
14 COMMISSION'S COSTS OF ENGAGING SPECIALIZED COUNSEL AND EXPERT
15 CONSULTANTS EXPERIENCED IN SECURITIZED ELECTRIC UTILITY
16 RATEPAYER-BACKED BOND FINANCING SIMILAR TO CO-EI BONDS AS
17 AUTHORIZED BY SECTION 40-41-107 (3).

18 (14) "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION
19 ISSUED PURSUANT TO SECTION 40-41-106 THAT GRANTS, IN WHOLE OR IN
20 PART, AN APPLICATION FILED PURSUANT TO SECTION 40-41-103 AND THAT
21 AUTHORIZES THE ISSUANCE OF CO-EI BONDS IN ONE OR MORE SERIES, THE
22 IMPOSITION, CHARGING, AND COLLECTION OF CO-EI CHARGES, AND THE
23 CREATION OF CO-EI PROPERTY.

24 (15) "FINANCING PARTY" MEANS A HOLDER OF CO-EI BONDS AND
25 TRUSTEES, COLLATERAL AGENTS, ANY PARTY UNDER AN ANCILLARY
26 AGREEMENT, OR ANY OTHER PERSON ACTING FOR THE BENEFIT OF A
27 HOLDER OF CO-EI BONDS.

1 (16) "FINANCING STATEMENT" HAS THE SAME MEANING AS SET
2 FORTH IN SECTION 4-9-102 (39).

3 (17) "NONBYPASSABLE" MEANS THAT THE PAYMENT OF A CO-EI
4 CHARGE MAY NOT BE AVOIDED BY ANY FUTURE OR EXISTING CUSTOMER
5 LOCATED WITHIN AN ELECTRIC UTILITY SERVICE AREA AS SUCH SERVICE
6 AREA EXISTED AS OF THE DATE OF THE FINANCING ORDER OR, IF THE
7 FINANCING ORDER SO PROVIDES, AS SUCH SERVICE AREA MAY BE
8 EXPANDED, EVEN IF THE CUSTOMER ELECTS TO PURCHASE ELECTRICITY
9 FROM A SUPPLIER OTHER THAN THE ELECTRIC UTILITY.

10 (18) "SUCCESSOR" MEANS, WITH RESPECT TO ANY LEGAL ENTITY,
11 ANOTHER LEGAL ENTITY THAT SUCCEEDS BY OPERATION OF LAW TO THE
12 RIGHTS AND OBLIGATIONS OF THE FIRST LEGAL ENTITY PURSUANT TO ANY
13 BANKRUPTCY, REORGANIZATION, RESTRUCTURING, OTHER INSOLVENCY
14 PROCEEDING, MERGER, ACQUISITION, CONSOLIDATION, OR SALE OR
15 TRANSFER OF ASSETS, WHETHER ANY OF THESE OCCUR DUE TO A
16 RESTRUCTURING OF THE ELECTRIC POWER INDUSTRY OR OTHERWISE.
17 SOLELY FOR THE PURPOSE OF IMPLEMENTING THIS ARTICLE 41,
18 "SUCCESSOR" DOES NOT INCLUDE ANY MUNICIPALLY OWNED ELECTRIC
19 UTILITY ESTABLISHED AND PROVIDING RETAIL ELECTRIC SERVICE BEFORE
20 THE DATE ON WHICH CO-EI BONDS ARE ISSUED PURSUANT TO A FINANCING
21 ORDER RELATING TO ELECTRIC GENERATING FACILITIES THAT SERVE OR
22 PREVIOUSLY SERVED THE SERVICE AREA OF THE MUNICIPALLY OWNED
23 ELECTRIC UTILITY.

24 **40-41-103. Financing orders - application requirements.**

25 (1) AN ELECTRIC UTILITY, IN ITS SOLE DISCRETION, MAY APPLY TO THE
26 COMMISSION FOR A FINANCING ORDER AS AUTHORIZED BY THIS SECTION.

27 (2) (a) AN INVESTOR-OWNED OR OTHER REGULATED ELECTRIC

1 UTILITY MAY FILE AN APPLICATION FOR APPROVAL TO ISSUE CO-EI BONDS
2 IN ONE OR MORE SERIES, IMPOSE, CHARGE, AND COLLECT CO-EI CHARGES,
3 AND CREATE CO-EI PROPERTY RELATED TO THE RETIREMENT OF AN
4 ELECTRIC GENERATING FACILITY IN COLORADO THAT HAS PREVIOUSLY
5 BEEN APPROVED BY THE COMMISSION.

6 (b) AN ELECTRIC UTILITY THAT IS NOT REGULATED MAY FILE AN
7 APPLICATION FOR APPROVAL TO ISSUE CO-EI BONDS IN ONE OR MORE
8 SERIES, IMPOSE, CHARGE, AND COLLECT CO-EI CHARGES, AND CREATE
9 CO-EI PROPERTY RELATED TO THE RETIREMENT OF AN ELECTRIC
10 GENERATING FACILITY IN COLORADO.

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

16 (3) (a) AN APPLICATION FOR A FINANCING ORDER MUST INCLUDE
17 THE FOLLOWING INFORMATION:

18 (I) A DESCRIPTION OF THE CO-EI COSTS THAT THE APPLICANT
19 PROPOSES TO RECOVER WITH THE PROCEEDS OF THE CO-EI BONDS;

20 (II) AN ESTIMATE OF THE FINANCING COSTS RELATED TO THE
21 CO-EI BONDS;

22 (III) AN ESTIMATE OF THE CO-EI CHARGES NECESSARY TO PAY
23 THE CO-EI COSTS AND ALL FINANCING COSTS, AND THE PERIOD OVER
24 WHICH SUCH COSTS WILL BE RECOVERED, INCLUDING THE PROPOSED
25 SCHEDULED AND FINAL MATURITY OF THE CO-EI BONDS;

26 (IV) A PROPOSED METHODOLOGY FOR ALLOCATING THE REVENUE
27 REQUIREMENT FOR THE CO-EI CHARGE AMONG CUSTOMER CLASSES,

1 INCLUDING SPECIAL CONTRACT CUSTOMERS;

2 (V) A DESCRIPTION OF THE NONBYPASSABLE CO-EI CHARGE
3 REQUIRED TO BE PAID BY CUSTOMERS WITHIN THE ELECTRIC UTILITY'S
4 SERVICE AREA FOR RECOVERY OF CO-EI COSTS AND A PROPOSED
5 ADJUSTMENT MECHANISM REFLECTING THE ALLOCATION METHODOLOGY
6 REFERRED TO IN SUBSECTION (3)(a)(IV) OF THIS SECTION;

7 (VI) AN ESTIMATE OF THE TIMING OF THE ISSUANCE OF THE CO-EI
8 BONDS, OR SERIES OF BONDS; AND

9 (VII) AN ESTIMATE OF THE NET PROJECTED COST SAVINGS OR A
10 DEMONSTRATION OF HOW THE ISSUANCE OF CO-EI BONDS AND THE
11 IMPOSITION OF CO-EI CHARGES WOULD AVOID OR SIGNIFICANTLY
12 MITIGATE RATE IMPACTS TO CUSTOMERS AS COMPARED WITH TRADITIONAL
13 METHODS OF FINANCING AND RECOVERING CO-EI COSTS FROM
14 CUSTOMERS.

15 (b) IN ADDITION TO FURNISHING THE INFORMATION SPECIFIED IN
16 SUBSECTION (3)(a) OF THIS SECTION, AN APPLICANT SHALL:

17 (I) SPECIFY A FUTURE RATEMAKING PROCESS TO RECONCILE ANY
18 DIFFERENCE BETWEEN THE CO-EI COSTS FINANCED BY CO-EI BONDS AND
19 THE FINAL CO-EI COSTS INCURRED BY THE UTILITY OR THE ASSIGNEE. THE
20 RECONCILIATION MAY AFFECT THE ELECTRIC UTILITY'S BASE RATES OR
21 ANY RIDER ADOPTED PURSUANT TO SECTION 40-41-104 (4), BUT SHALL
22 NOT AFFECT THE AMOUNT OF THE BONDS OR THE ASSOCIATED CO-EI
23 CHARGES PAID BY CUSTOMERS.

24 (II) PROVIDE DIRECT TESTIMONY SUPPORTING THE APPLICATION.

25 **40-41-104. Issuance of financing orders.** (1) FOLLOWING
26 NOTICE AND HEARING ON AN APPLICATION FOR A FINANCING ORDER AS
27 REQUIRED BY THE COMMISSION'S RULES, PRACTICE, AND PROCEDURE, THE

1 COMMISSION MAY ISSUE A FINANCING ORDER IF THE COMMISSION FINDS
2 THAT:

3 (a) THE CO-EI COSTS DESCRIBED IN THE APPLICATION RELATED TO
4 THE RETIREMENT OF THE ELECTRIC GENERATING FACILITIES ARE
5 REASONABLE;

6 (b) THE PROPOSED ISSUANCE OF CO-EI BONDS AND THE
7 IMPOSITION AND COLLECTION OF CO-EI CHARGES:

8 (I) ARE JUST AND REASONABLE;

9 (II) ARE CONSISTENT WITH THE PUBLIC INTEREST;

10 (III) CONSTITUTE A PRUDENT AND REASONABLE MECHANISM FOR
11 THE FINANCING OF THE CO-EI COSTS DESCRIBED IN THE APPLICATION; AND

12 (IV) WILL PROVIDE SUBSTANTIAL, TANGIBLE, AND QUANTIFIABLE
13 NET PRESENT VALUE SAVINGS OR OTHER BENEFITS TO CUSTOMERS THAT
14 ARE GREATER THAN THE BENEFITS THAT WOULD HAVE BEEN ACHIEVED
15 ABSENT THE ISSUANCE OF CO-EI BONDS; AND

16 (c) THE PROVISIONS OF THE FINANCING ORDER WILL ENSURE THAT
17 THE PROPOSED STRUCTURING, MARKETING, AND PRICING OF THE CO-EI
18 BONDS WILL:

19 (I) MATERIALLY LOWER OVERALL COSTS TO CUSTOMERS OR AVOID
20 OR MITIGATE RATE IMPACTS TO CUSTOMERS RELATIVE TO TRADITIONAL
21 METHODS OF FINANCING AND RECOVERING CO-EI COSTS FROM
22 CUSTOMERS; AND

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

27 (2) THE FINANCING ORDER MUST:

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

4 (b) APPROVE A METHODOLOGY FOR ALLOCATING THE REVENUE
5 REQUIREMENT FOR THE CO-EI CHARGE AMONG CUSTOMER CLASSES;

6 (c) DESCRIBE THE PROPOSED CUSTOMER BILLING MECHANISM FOR
7 CO-EI CHARGES AND INCLUDE A FINDING THAT THE MECHANISM IS JUST
8 AND REASONABLE;

9 (d) DESCRIBE AND ESTIMATE THE FINANCING COSTS THAT MAY BE
10 RECOVERED THROUGH CO-EI CHARGES AND THE PERIOD OVER WHICH THE
11 COSTS MAY BE RECOVERED, SUBJECT TO SECTION 40-41-105;

12 (e) DETERMINE WHETHER THE PROPOSED STRUCTURING, EXPECTED
13 PRICING, AND FINANCING COSTS OF CO-EI BONDS HAVE A SIGNIFICANT
14 LIKELIHOOD OF LOWERING OVERALL COSTS TO CUSTOMERS OR AVOIDING
15 OR SIGNIFICANTLY MITIGATING RATE IMPACTS TO CUSTOMERS AS
16 COMPARED WITH TRADITIONAL METHODS OF FINANCING AND RECOVERING
17 CO-EI COSTS FROM CUSTOMERS. A FINANCING ORDER MUST PROVIDE
18 DETAILED FINDINGS OF FACT ADDRESSING COST-EFFECTIVENESS AND
19 ASSOCIATED RATE IMPACTS UPON CUSTOMERS AND CUSTOMER CLASSES.

20 (f) REQUIRE THE IMPOSITION AND COLLECTION OF THE
21 NON-BYPASSABLE CO-EI CHARGES AUTHORIZED UNDER A FINANCING
22 ORDER FOR THE PERIOD SPECIFIED IN SUBSECTION (2)(d) OF THIS SECTION;

23 (g) DESCRIBE THE CO-EI PROPERTY THAT MAY BE CREATED IN
24 FAVOR OF THE UTILITY AND ITS SUCCESSORS AND ASSIGNEES AND THAT
25 WILL BE USED TO PAY, AND SECURE THE PAYMENT OF, THE CO-EI BONDS
26 AND FINANCING COSTS AUTHORIZED IN THE FINANCING ORDER;

27 (h) AUTHORIZE AND APPROVE AN ADJUSTMENT MECHANISM

1 REFLECTING THE ALLOCATION METHODOLOGY SPECIFIED IN SUBSECTION
2 (2)(b) OF THIS SECTION;

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

9 (j) INCLUDE ANY ADDITIONAL FINDINGS OR CONCLUSIONS DEEMED
10 APPROPRIATE BY THE COMMISSION;

11 (k) SPECIFY THE DEGREE OF FLEXIBILITY AFFORDED TO THE
12 ELECTRIC UTILITY IN ESTABLISHING THE TERMS AND CONDITIONS OF THE
13 CO-EI BONDS, INCLUDING, BUT NOT LIMITED TO, REPAYMENT SCHEDULES,
14 EXPECTED INTEREST RATES, AND OTHER FINANCING COSTS;

15 (l) SPECIFY THE TIMING OF ACTIONS REQUIRED BY THE ORDER,
16 INCLUDING:

17 (I) THE TIMING OF ISSUANCE OF THE CO-EI BONDS, INDEPENDENT
18 OF THE SCHEDULE OF RETIREMENT OF THE ELECTRIC GENERATING
19 FACILITY;

20 (II) THE ENERGY ASSISTANCE FUNDS, IF INCLUDED IN THE BOND
21 ISSUE, MAY BE TRANSFERRED TO A THIRD-PARTY ENTITY DESIGNATED BY
22 THE COMMISSION TO ADMINISTER TRANSITION ASSISTANCE ON BEHALF OF
23 DISPLACED WORKERS AND AFFECTED COMMUNITIES NO LATER THAN THE
24 DATE ON WHICH THE ELECTRIC GENERATING FACILITY CEASES OPERATION;
25 AND

26 (III) THE APPLICANT ELECTRIC UTILITY FILES TO REDUCE ITS RATES
27 AS REQUIRED IN SUBSECTION (4) OF THIS SECTION SIMULTANEOUSLY WITH

1 THE INCEPTION OF THE CO-EI CHARGES AND INDEPENDENTLY OF THE
2 SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
3 GENERATING FACILITY; AND

4 (m) SPECIFY A FUTURE RATEMAKING PROCESS TO RECONCILE ANY
5 DIFFERENCE BETWEEN THE ACTUAL CO-EI COSTS FINANCED BY CO-EI
6 BONDS AND THE FINAL CO-EI COSTS INCURRED BY THE UTILITY OR THE
7 ASSIGNEE. THE RECONCILIATION MAY AFFECT THE ELECTRIC UTILITY'S
8 BASE RATES OR ANY RIDER ADOPTED PURSUANT TO SUBSECTION (4) OF
9 THIS SECTION, BUT SHALL NOT AFFECT THE AMOUNT OF THE BONDS OR THE
10 ASSOCIATED CO-EI CHARGES PAID BY CUSTOMERS.

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

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

23 (5) IF THE VOTERS OF A LOCAL GOVERNMENT OR SCHOOL DISTRICT
24 HAVE APPROVED PROJECTS THE COSTS OF WHICH ARE EXPECTED TO BE
25 PAID FOR FROM PROPERTY TAXES THAT ARE DIRECTLY IMPACTED BY THE
26 RETIREMENT OF AN ELECTRIC GENERATING FACILITY PURSUANT TO THE
27 TERMS OF A FINANCING ORDER, THE FINANCING ORDER MUST PROVIDE FOR

1 THE PAYMENT OF COMMUNITY ASSISTANCE TO THE LOCAL GOVERNMENT
2 IN AN AMOUNT EQUAL TO THE COSTS OF THE VOTER-APPROVED PROJECTS
3 THAT WERE EXPECTED TO BE PAID FROM THE REVENUE SOURCES DIRECTLY
4 IMPACTED BY THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY
5 PURSUANT TO THE TERMS OF THE FINANCING ORDER, INCLUDING THE
6 COSTS OF FINANCING SUCH PROJECTS, INCLUDING BUT NOT LIMITED TO THE
7 PAYMENT OF BONDS, NOTES, OR OTHER MULTIPLE-FISCAL YEAR
8 OBLIGATIONS OR LEASE PURCHASE AGREEMENTS THAT HAVE BEEN ISSUED
9 OR ENTERED INTO TO PAY THE COSTS OF SUCH PROJECTS. ANY PAYMENT
10 OF COMMUNITY ASSISTANCE SHALL BE REDUCED ON AN EQUIVALENT BASIS
11 TO THE EXTENT THAT PROPERTY TAX IS DERIVED FROM NEW ELECTRIC
12 INFRASTRUCTURE DEVELOPED IN THE SAME IMPACTED COMMUNITY.

13 (6) IN A FINANCING ORDER, THE COMMISSION MAY INCLUDE ANY
14 CONDITIONS THAT ARE NECESSARY TO PROMOTE THE PUBLIC INTEREST
15 AND MAY GRANT RELIEF THAT IS DIFFERENT FROM THAT WHICH WAS
16 REQUESTED IN THE APPLICATION SO LONG AS THE RELIEF IS WITHIN THE
17 SCOPE OF THE MATTERS ADDRESSED IN THE COMMISSION'S NOTICE OF THE
18 APPLICATION.

19 **40-41-105. Effect of financing order.** (1) A FINANCING ORDER
20 REMAINS IN EFFECT UNTIL THE CO-EI BONDS ISSUED AS AUTHORIZED BY
21 THE FINANCING ORDER HAVE BEEN PAID IN FULL AND ALL FINANCING
22 COSTS RELATING TO THE CO-EI BONDS HAVE BEEN PAID IN FULL.

23 (2) A FINANCING ORDER REMAINS IN EFFECT AND UNABATED
24 NOTWITHSTANDING THE BANKRUPTCY, REORGANIZATION, OR INSOLVENCY
25 OF THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES OR
26 ANY AFFILIATE OF THE ELECTRIC UTILITY OR SUCCESSOR ENTITY OR
27 ASSIGNEE.

1 (3) SUBJECT TO JUDICIAL REVIEW AS PROVIDED FOR IN SECTION
2 40-41-108, A FINANCING ORDER IS IRREVOCABLE. THEREFORE,
3 NOTWITHSTANDING SECTION 40-6-112 (1), THE COMMISSION MAY NOT
4 REDUCE, IMPAIR, POSTPONE, OR TERMINATE CO-EI CHARGES APPROVED
5 IN A FINANCING ORDER OR IMPAIR CO-EI PROPERTY OR THE COLLECTION
6 OR RECOVERY OF CO-EI REVENUE.

7 (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, UPON
8 THE REQUEST OF AN ELECTRIC UTILITY OR AT THE REQUEST OF PARTIES IN
9 THE COMMISSION PROCEEDING, THE COMMISSION MAY COMMENCE A
10 PROCEEDING AND ISSUE A SUBSEQUENT FINANCING ORDER THAT PROVIDES
11 FOR REFINANCING, RETIRING, OR REFUNDING CO-EI BONDS ISSUED
12 PURSUANT TO THE ORIGINAL FINANCING ORDER IF:

13 (a) THE COMMISSION MAKES ALL OF THE FINDINGS SPECIFIED IN
14 SECTION 40-41-104 (1) WITH RESPECT TO THE SUBSEQUENT FINANCING
15 ORDER; AND

16 (b) THE SUBSEQUENT FINANCING ORDER DOES NOT IMPAIR IN ANY
17 WAY THE COVENANTS AND TERMS OF THE CO-EI BONDS TO BE
18 REFINANCED, RETIRED, OR REFUNDED.

19 **40-41-106. Effect on commission jurisdiction.** (1) EXCEPT AS
20 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, IF THE
21 COMMISSION ISSUES A FINANCING ORDER TO AN ELECTRIC UTILITY, THE
22 COMMISSION SHALL NOT, IN EXERCISING ITS POWERS AND CARRYING OUT
23 ITS DUTIES PURSUANT TO THIS ARTICLE 41:

24 (a) CONSIDER THE CO-EI BONDS ISSUED PURSUANT TO THE
25 FINANCING ORDER TO BE DEBT OF THE ELECTRIC UTILITY OTHER THAN FOR
26 INCOME TAX PURPOSES;

27 (b) CONSIDER THE CO-EI CHARGES PAID UNDER THE FINANCING

1 ORDER TO BE REVENUE OF THE ELECTRIC UTILITY;

2 (c) CONSIDER THE CO-EI COSTS OR FINANCING COSTS SPECIFIED
3 IN THE FINANCING ORDER TO BE THE REGULATED COSTS OR ASSETS OF THE
4 ELECTRIC UTILITY; OR

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

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

9 (a) PREVENTS OR PRECLUDES THE COMMISSION FROM
10 INVESTIGATING THE COMPLIANCE OF AN ELECTRIC UTILITY WITH THE
11 TERMS AND CONDITIONS OF A FINANCING ORDER AND REQUIRING
12 COMPLIANCE WITH THE FINANCING ORDER; OR

13 (b) PREVENTS OR PRECLUDES THE COMMISSION FROM IMPOSING
14 REGULATORY SANCTIONS AGAINST A REGULATED ELECTRIC UTILITY FOR
15 FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF A FINANCING
16 ORDER OR THE REQUIREMENTS OF THIS ARTICLE 41.

17 (3) THE COMMISSION MAY NOT REFUSE TO ALLOW THE RECOVERY
18 OF ANY COSTS ASSOCIATED WITH THE RETIREMENT OF ELECTRIC
19 GENERATING FACILITIES BY AN ELECTRIC UTILITY SOLELY BECAUSE THE
20 ELECTRIC UTILITY HAS ELECTED TO RECOVER THOSE COSTS THROUGH
21 TRADITIONAL RATEMAKING METHODS OR TO FINANCE THOSE ACTIVITIES
22 THROUGH A FINANCING MECHANISM OTHER THAN CO-EI BONDS, WHETHER
23 OR NOT A FINANCING ORDER WITH RESPECT TO SUCH COSTS HAS BEEN
24 APPLIED FOR BY THE UTILITY OR ISSUED BY THE COMMISSION.

25 (4) THE COMMISSION MAY ADOPT RULES TO IMPLEMENT THIS
26 ARTICLE 41.

27 **40-41-107. Electric utility customer protection. (1) IN**

1 ADDITION TO ANY OTHER AUTHORITY OF THE COMMISSION;

2 (a) THE COMMISSION MAY ATTACH SUCH CONDITIONS TO THE
3 APPROVAL OF A FINANCING ORDER AS THE COMMISSION DEEMS
4 APPROPRIATE TO MAXIMIZE THE BENEFITS AND MINIMIZE THE RISKS OF THE
5 TRANSACTION TO CUSTOMERS, DIRECTLY IMPACTED COLORADO WORKERS
6 AND COMMUNITIES, AND THE ELECTRIC UTILITY;

7 (b) THE COMMISSION SHALL SPECIFY IN THE FINANCING ORDER A
8 PROCESS TO STRUCTURE, MARKET, AND PRICE CO-EI BONDS, INCLUDING
9 THE SELECTION OF THE UNDERWRITER OR UNDERWRITERS, IN A MANNER
10 CONSISTENT WITH THE PUBLIC INTEREST AND THE LEGAL OBLIGATIONS OF
11 THE ELECTRIC UTILITY;

12 (c) THE COMMISSION SHALL REVIEW AND DETERMINE THE
13 REASONABLENESS OF ALL PROPOSED UP-FRONT AND ONGOING FINANCING
14 COSTS; AND

15 (d) THE COMMISSION HAS THE AUTHORITY REQUIRED TO PERFORM
16 COMPREHENSIVE DUE DILIGENCE IN ITS EVALUATION OF AN APPLICATION
17 FOR A FINANCING ORDER AND HAS THE AUTHORITY TO OVERSEE THE
18 PROCESS USED TO STRUCTURE, MARKET, AND PRICE CO-EI BONDS.

19 (2) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ISSUANCE OF
20 CO-EI BONDS, THE APPLICANT SHALL FILE WITH THE COMMISSION
21 INFORMATION REGARDING THE ACTUAL UP-FRONT ISSUANCE COSTS OF THE
22 CO-EI BONDS. THE COMMISSION SHALL REVIEW, ON A REASONABLY
23 COMPARABLE BASIS, SUCH INFORMATION TO DETERMINE IF THE ISSUANCE
24 RESULTED IN THE LOWEST OVERALL COSTS THAT WERE REASONABLY
25 CONSISTENT WITH BOTH MARKET CONDITIONS AT THE TIME OF THE PRICING
26 AND THE TERMS OF THE FINANCING ORDER. THE COMMISSION MAY
27 DISALLOW INCREMENTAL UP-FRONT ISSUANCE COSTS IN EXCESS OF THE

1 LOWEST OVERALL COSTS BY REQUIRING THE ELECTRIC UTILITY TO MAKE
2 A CREDIT IN AN AMOUNT EQUAL TO THE EXCESS OF ACTUAL ISSUANCE
3 COSTS INCURRED, AND PAID FOR OUT OF CO-EI BOND PROCEEDS, AND THE
4 LOWEST OVERALL ISSUANCE COSTS AS DETERMINED BY THE COMMISSION.
5 THE COMMISSION MAY NOT MAKE ADJUSTMENTS TO THE CO-EI CHARGES
6 FOR ANY SUCH EXCESS UP-FRONT ISSUANCE COSTS.

7 (3) IN PERFORMING ITS RESPONSIBILITIES UNDER THIS ARTICLE
8 41, THE COMMISSION MAY ENGAGE OUTSIDE CONSULTANTS AND COUNSEL,
9 SELECTED BY THE COMMISSION, WHO ARE EXPERIENCED IN SECURITIZED
10 ELECTRIC UTILITY RATEPAYER-BACKED BOND FINANCING SIMILAR TO
11 CO-EI BONDS. THESE OUTSIDE CONSULTANTS AND COUNSEL HAVE A DUTY
12 OF LOYALTY SOLELY TO THE COMMISSION, MUST NOT HAVE ANY
13 FINANCIAL INTEREST IN THE CO-EI BONDS, AND SHALL NOT PARTICIPATE
14 IN THE UNDERWRITING OR SECONDARY MARKET TRADING OF THE CO-EI
15 BONDS. THE EXPENSES ASSOCIATED WITH ANY ENGAGEMENT SHALL BE
16 PAID BY THE APPLICANT UTILITY AND SHALL BE INCLUDED AS FINANCING
17 COSTS AND INCLUDED IN THE CO-EI CHARGE, ARE NOT AN OBLIGATION OF
18 THE STATE, AND ARE ASSIGNED SOLELY TO THE TRANSACTION.

19 (4) IF AN ELECTRIC UTILITY'S APPLICATION FOR A FINANCING
20 ORDER IS DENIED OR WITHDRAWN OR FOR ANY REASON NO CO-EI BONDS
21 ARE ISSUED, ANY COSTS OF RETAINING EXPERT CONSULTANTS AND
22 COUNSEL ON BEHALF OF THE COMMISSION, AS AUTHORIZED BY
23 SUBSECTION (3) OF THIS SECTION AND APPROVED BY THE COMMISSION,
24 SHALL BE PAID BY THE APPLICANT ELECTRIC UTILITY AND SHALL BE
25 ELIGIBLE FOR RECOVERY BY THE ELECTRIC UTILITY, INCLUDING CARRYING
26 COSTS, IN THE ELECTRIC UTILITY'S FUTURE RATES.

27 **40-41-108. Judicial review of financing orders.** A FINANCING

1 ORDER IS A FINAL ORDER OF THE COMMISSION. NOTWITHSTANDING
2 SECTION 40-6-115 (5) SPECIFYING PROPER VENUE FOR PETITION FILINGS,
3 A PARTY AGGRIEVED BY THE ISSUANCE OF A FINANCING ORDER MAY
4 PETITION FOR SUSPENSION AND REVIEW OF THE FINANCING ORDER ONLY IN
5 THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER. IN THE CASE
6 OF ANY PETITION FOR SUSPENSION AND REVIEW, THE COURT SHALL
7 PROCEED TO HEAR AND DETERMINE THE ACTION AS EXPEDITIOUSLY AS
8 PRACTICABLE AND SHALL GIVE THE ACTION PRECEDENCE OVER OTHER
9 MATTERS NOT ACCORDED SIMILAR PRECEDENCE BY LAW.

10 **40-41-109. Electric utilities - duties.** (1) THE ELECTRIC BILLS OF
11 AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND
12 CAUSED CO-EI BONDS TO BE ISSUED:

13 (a) MUST EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES
14 ON THE BILL REPRESENTS CO-EI CHARGES APPROVED IN A FINANCING
15 ORDER ISSUED TO THE ELECTRIC UTILITY AND, IF THE CO-EI PROPERTY
16 HAS BEEN TRANSFERRED TO AN ASSIGNEE, MUST INCLUDE A STATEMENT
17 THAT THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO CO-EI CHARGES
18 AND THAT THE ELECTRIC UTILITY OR OTHER ENTITY, IF APPLICABLE, IS
19 ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE;

20 (b) MUST INCLUDE THE CO-EI CHARGE ON EACH CUSTOMER'S BILL
21 AS A SEPARATE LINE ITEM TITLED "ENERGY IMPACT ASSISTANCE CHARGE"
22 AND MAY INCLUDE BOTH THE RATE AND THE AMOUNT OF THE CHARGE ON
23 EACH BILL. THE FAILURE OF AN ELECTRIC UTILITY TO COMPLY WITH THIS
24 SUBSECTION (1) DOES NOT INVALIDATE, IMPAIR, OR AFFECT ANY
25 FINANCING ORDER, CO-EI PROPERTY, CO-EI CHARGE, OR CO-EI BONDS,
26 BUT MAY SUBJECT THE ELECTRIC UTILITY TO PENALTIES UNDER
27 APPLICABLE COMMISSION RULES; AND

1 (c) MUST EXPLAIN TO CUSTOMERS IN AN ANNUAL FILING WITH THE
2 COMMISSION THE RATE IMPACT THAT FINANCING THE RETIREMENT OF
3 ELECTRIC GENERATING FACILITIES WILL HAVE ON CUSTOMER RATES.

4 (2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER
5 AND CAUSED CO-EI BONDS TO BE ISSUED MUST DEMONSTRATE IN AN
6 ANNUAL FILING WITH THE COMMISSION THAT CO-EI BOND PROCEEDS ARE
7 APPLIED SOLELY TO THE REPAYMENT OF CO-EI COSTS AND THAT CO-EI
8 REVENUES ARE APPLIED SOLELY TO THE REPAYMENT OF CO-EI BONDS AND
9 OTHER FINANCING COSTS IN ACCORDANCE WITH THE FINANCING ORDER.
10 THE COST OF SUCH ANNUAL FILING IS A FINANCING COST RECOVERABLE BY
11 THE ELECTRIC UTILITY FROM THE CO-EI CHARGE.

12 **40-41-110. CO-EI property.** (1) CO-EI PROPERTY THAT IS
13 DESCRIBED IN A FINANCING ORDER CONSTITUTES AN EXISTING PRESENT
14 PROPERTY RIGHT OR INTEREST IN AN EXISTING PRESENT PROPERTY RIGHT
15 EVEN THOUGH THE IMPOSITION AND COLLECTION OF CO-EI CHARGES
16 DEPENDS ON THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER IS
17 ISSUED PERFORMING ITS SERVICING FUNCTIONS RELATING TO THE
18 COLLECTION OF CO-EI CHARGES AND ON FUTURE ELECTRICITY
19 CONSUMPTION. THE PROPERTY RIGHT OR INTEREST EXISTS REGARDLESS OF
20 WHETHER THE REVENUES OR PROCEEDS ARISING FROM THE CO-EI
21 PROPERTY HAVE BEEN BILLED, HAVE ACCRUED, OR HAVE BEEN COLLECTED
22 AND NOTWITHSTANDING THE FACT THAT THE VALUE OR AMOUNT OF THE
23 PROPERTY RIGHT OR INTEREST IS DEPENDENT ON THE FUTURE PROVISION
24 OF SERVICE TO CUSTOMERS BY THE ELECTRIC UTILITY OR A SUCCESSOR OR
25 ASSIGNEE OF THE ELECTRIC UTILITY.

26 (2) CO-EI PROPERTY DESCRIBED IN A FINANCING ORDER EXISTS
27 UNTIL ALL CO-EI BONDS ISSUED PURSUANT TO THE FINANCING ORDER ARE

1 PAID IN FULL AND ALL FINANCING COSTS AND OTHER COSTS OF THE CO-EI
2 BONDS HAVE BEEN RECOVERED IN FULL.

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

17 (4) IF AN ELECTRIC UTILITY DEFAULTS ON ANY REQUIRED PAYMENT
18 OF CHARGES ARISING FROM CO-EI PROPERTY DESCRIBED IN A FINANCING
19 ORDER, A COURT, UPON APPLICATION BY AN INTERESTED PARTY AND
20 WITHOUT LIMITING ANY OTHER REMEDIES AVAILABLE TO THE APPLYING
21 PARTY, SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE
22 REVENUE ARISING FROM THE CO-EI PROPERTY TO THE FINANCING
23 PARTIES. ANY SUCH FINANCING ORDER REMAINS IN FULL FORCE AND
24 EFFECT NOTWITHSTANDING ANY REORGANIZATION, BANKRUPTCY, OR
25 OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE ELECTRIC
26 UTILITY OR ITS SUCCESSORS OR ASSIGNEES.

27 (5) THE INTEREST OF A TRANSFEREE, PURCHASER, ACQUIRER,

1 ASSIGNEE, OR PLEDGEE IN CO-EI PROPERTY SPECIFIED IN A FINANCING
2 ORDER ISSUED TO AN ELECTRIC UTILITY, AND IN THE REVENUE AND
3 COLLECTIONS ARISING FROM THAT PROPERTY, IS NOT SUBJECT TO SETOFF,
4 COUNTERCLAIM, SURCHARGE, OR DEFENSE BY THE ELECTRIC UTILITY OR
5 ANY OTHER PERSON OR IN CONNECTION WITH THE REORGANIZATION,
6 BANKRUPTCY, OR OTHER INSOLVENCY OF THE ELECTRIC UTILITY OR ANY
7 OTHER ENTITY.

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

21 **40-41-111. CO-EI bonds - legal investments - not public debt**
22 **- pledge of state.** (1) BANKS, TRUST COMPANIES, SAVINGS AND LOAN
23 ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS,
24 GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST
25 ANY MONEY WITHIN THEIR CONTROL IN CO-EI BONDS. PUBLIC ENTITIES,
26 AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC FUNDS IN
27 CO-EI BONDS ONLY IF THE CO-EI BONDS SATISFY THE INVESTMENT

1 REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24.

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

13 (3) (a) THE STATE PLEDGES TO AND AGREES WITH HOLDERS OF
14 CO-EI BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES THAT THE
15 STATE WILL NOT:

16 (I) TAKE OR PERMIT ANY ACTION THAT IMPAIRS THE VALUE OF
17 CO-EI PROPERTY; OR

18 (II) REDUCE, ALTER, OR IMPAIR CO-EI CHARGES, EXCEPT
19 THROUGH APPLICATION OF THE ADJUSTMENT MECHANISM, THAT ARE
20 IMPOSED, COLLECTED, AND REMITTED FOR THE BENEFIT OF HOLDERS OF
21 CO-EI BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES, UNTIL ANY
22 PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM PAYABLE ON CO-EI
23 BONDS, ALL FINANCING COSTS, AND ALL AMOUNTS TO BE PAID TO AN
24 ASSIGNEE OR FINANCING PARTY UNDER AN ANCILLARY AGREEMENT ARE
25 PAID IN FULL.

26 (b) A PERSON WHO ISSUES CO-EI BONDS MAY INCLUDE THE
27 PLEDGE SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION IN THE CO-EI

1 BONDS, ANCILLARY AGREEMENTS, AND DOCUMENTATION RELATED TO THE
2 ISSUANCE AND MARKETING OF THE CO-EI BONDS.

3 **40-41-112. Assignee or financing party not automatically**
4 **subject to commission regulation.** AN ELECTRIC UTILITY, ASSIGNEE, OR
5 FINANCING PARTY THAT IS NOT ALREADY REGULATED BY THE COMMISSION
6 DOES NOT BECOME SUBJECT TO COMMISSION REGULATION SOLELY AS A
7 RESULT OF ENGAGING IN ANY TRANSACTION AUTHORIZED BY OR
8 DESCRIBED IN THIS ARTICLE 41.

9 **40-41-113. Effect of other laws and judicial decisions.** (1) IF
10 ANY PROVISION OF THIS ARTICLE 41 CONFLICTS WITH ANY OTHER LAW
11 REGARDING THE ATTACHMENT, ASSIGNMENT, PERFECTION, EFFECT OF
12 PERFECTION, OR PRIORITY OF ANY SECURITY INTEREST IN OR TRANSFER OF
13 CO-EI PROPERTY, THE PROVISION OF THIS ARTICLE 41 GOVERNS TO THE
14 EXTENT OF THE CONFLICT.

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

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

1 (a) A SUBSEQUENT FINANCING ORDER AMENDING THE FINANCING
2 ORDER AS AUTHORIZED BY SECTION 40-41-105 (4); OR

3 (b) APPROVAL OF THE ISSUANCE OF CO-EI BONDS TO REFUND ALL
4 OR A PORTION OF AN OUTSTANDING SERIES OF CO-EI BONDS.

5 **40-41-114. Choice of law.** THE LAWS OF THIS STATE GOVERN THE
6 VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY, AND
7 EXERCISE OF REMEDIES WITH RESPECT TO THE TRANSFER OF AN INTEREST
8 OR RIGHT OR CREATION OF A SECURITY INTEREST IN ANY CO-EI PROPERTY,
9 CO-EI CHARGE, OR FINANCING ORDER.

10 **40-41-115. Security interests in CO-EI property.** (1) THE
11 CREATION, PERFECTION, AND ENFORCEMENT OF ANY SECURITY INTEREST
12 IN CO-EI PROPERTY TO SECURE THE REPAYMENT OF THE PRINCIPAL OF
13 AND INTEREST ON CO-EI BONDS, AMOUNTS PAYABLE UNDER ANY
14 ANCILLARY AGREEMENT, AND OTHER FINANCING COSTS ARE GOVERNED BY
15 THIS SECTION AND NOT BY THE "UNIFORM COMMERCIAL CODE", TITLE 4,
16 TO THE EXTENT OF ANY CONFLICT.

17 (2) THE DESCRIPTION OR INDICATION OF CO-EI PROPERTY IN A
18 TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS
19 SUFFICIENT ONLY IF THE DESCRIPTION OR INDICATION REFERS TO THIS
20 ARTICLE 41 AND THE FINANCING ORDER CREATING THE CO-EI PROPERTY.

21 (3) (a) A SECURITY INTEREST IN CO-EI PROPERTY IS CREATED,
22 VALID, AND BINDING AS SOON AS ALL OF THE FOLLOWING EVENTS HAVE
23 OCCURRED:

24 (I) THE FINANCING ORDER THAT DESCRIBES THE CO-EI PROPERTY
25 IS ISSUED;

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

27 (III) VALUE IS RECEIVED FOR THE CO-EI BONDS.

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

17 (4) A SECURITY INTEREST IN CO-EI PROPERTY IS A CONTINUOUSLY
18 PERFECTED SECURITY INTEREST AND HAS PRIORITY OVER ANY OTHER LIEN,
19 CREATED BY OPERATION OF LAW OR OTHERWISE, WHICH MAY
20 SUBSEQUENTLY ATTACH TO THE CO-EI PROPERTY UNLESS THE HOLDER OF
21 THE SECURITY INTEREST HAS AGREED IN WRITING OTHERWISE.

22 (5) THE PRIORITY OF A SECURITY INTEREST IN CO-EI PROPERTY IS
23 NOT AFFECTED BY THE COMMINGLING OF CO-EI PROPERTY OR CO-EI
24 REVENUE WITH OTHER MONEY. AN ASSIGNEE, BONDHOLDER, OR
25 FINANCING PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT
26 OF ALL CO-EI PROPERTY OR CO-EI REVENUE THAT IS PLEDGED FOR THE
27 PAYMENT OF CO-EI BONDS EVEN IF THE CO-EI PROPERTY OR CO-EI

1 REVENUE IS DEPOSITED IN A CASH OR DEPOSIT ACCOUNT OF THE ELECTRIC
2 UTILITY IN WHICH THE CO-EI REVENUE IS COMMINGLED WITH OTHER
3 MONEY, AND ANY OTHER SECURITY INTEREST THAT APPLIES TO THE OTHER
4 MONEY DOES NOT APPLY TO THE CO-EI REVENUE.

5 (6) NEITHER A SUBSEQUENT ORDER OF THE COMMISSION
6 AMENDING A FINANCING ORDER AS AUTHORIZED BY SECTION 40-41-105
7 (4), NOR APPLICATION OF AN ADJUSTMENT MECHANISM AS AUTHORIZED BY
8 SECTION 40-41-104 (2)(h), AFFECTS THE VALIDITY, PERFECTION, OR
9 PRIORITY OF A SECURITY INTEREST IN OR TRANSFER OF CO-EI PROPERTY.

10 **40-41-116. Sales of CO-EI property.** (1) (a) A SALE,
11 ASSIGNMENT, OR TRANSFER OF CO-EI PROPERTY IS AN ABSOLUTE
12 TRANSFER AND TRUE SALE OF, AND NOT A PLEDGE OF OR SECURED
13 TRANSACTION RELATING TO, THE SELLER'S RIGHT, TITLE, AND INTEREST IN,
14 TO, AND UNDER THE CO-EI PROPERTY IF THE DOCUMENTS GOVERNING THE
15 TRANSACTION EXPRESSLY STATE THAT THE TRANSACTION IS A SALE OR
16 OTHER ABSOLUTE TRANSFER. A TRANSFER OF AN INTEREST IN CO-EI
17 PROPERTY MAY BE CREATED ONLY WHEN ALL OF THE FOLLOWING HAVE
18 OCCURRED:

19 (I) THE FINANCING ORDER CREATING AND DESCRIBING THE CO-EI
20 PROPERTY HAS BECOME EFFECTIVE;

21 (II) THE DOCUMENTS EVIDENCING THE TRANSFER OF THE CO-EI
22 PROPERTY HAVE BEEN EXECUTED AND DELIVERED TO THE ASSIGNEE; AND

23 (III) VALUE IS RECEIVED.

24 (b) UPON THE FILING OF A FINANCING STATEMENT WITH THE
25 SECRETARY OF STATE, A TRANSFER OF AN INTEREST IN CO-EI PROPERTY
26 IS PERFECTED AGAINST ALL THIRD PERSONS, INCLUDING ANY JUDICIAL LIEN
27 OR OTHER LIEN CREDITORS OR ANY CLAIMS OF THE SELLER OR CREDITORS

1 OF THE SELLER, OTHER THAN CREDITORS HOLDING A PRIOR SECURITY
2 INTEREST, OWNERSHIP INTEREST, OR ASSIGNMENT IN THE CO-EI PROPERTY
3 PREVIOUSLY PERFECTED IN ACCORDANCE WITH THIS SUBSECTION (1) OR
4 SECTION 40-41-115. THE SECRETARY OF STATE SHALL MAINTAIN A
5 FINANCING STATEMENT FILED PURSUANT TO THIS SUBSECTION (1)(b) IN
6 THE SAME MANNER IN WHICH THE SECRETARY MAINTAINS AND IN THE
7 SAME RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
8 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
9 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
10 (1)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF
11 FINANCING STATEMENTS.

12 (2) THE CHARACTERIZATION OF A SALE, ASSIGNMENT, OR
13 TRANSFER AS AN ABSOLUTE TRANSFER AND TRUE SALE AND THE
14 CORRESPONDING CHARACTERIZATION OF THE PROPERTY INTEREST OF THE
15 ASSIGNEE IS NOT AFFECTED OR IMPAIRED BY THE EXISTENCE OR
16 OCCURRENCE OF ANY OF THE FOLLOWING:

17 (a) COMMINGLING OF CO-EI REVENUE WITH OTHER MONEY;

18 (b) THE RETENTION BY THE SELLER OF:

19 (I) A PARTIAL OR RESIDUAL INTEREST, INCLUDING AN EQUITY
20 INTEREST, IN THE CO-EI PROPERTY, WHETHER DIRECT OR INDIRECT, OR
21 WHETHER SUBORDINATE OR OTHERWISE; OR

22 (II) THE RIGHT TO RECOVER COSTS ASSOCIATED WITH TAXES,
23 FRANCHISE FEES, OR LICENSE FEES IMPOSED ON THE COLLECTION OF CO-EI
24 REVENUE;

25 (c) ANY RECOURSE THAT THE PURCHASER MAY HAVE AGAINST THE
26 SELLER;

27 (d) ANY INDEMNIFICATION RIGHTS, OBLIGATIONS, OR REPURCHASE

1 RIGHTS MADE OR PROVIDED BY THE SELLER;

2 (e) AN OBLIGATION OF THE SELLER TO COLLECT CO-EI REVENUES
3 ON BEHALF OF AN ASSIGNEE;

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

6 (g) ANY SUBSEQUENT FINANCING ORDER AMENDING A FINANCING
7 ORDER AS AUTHORIZED BY SECTION 40-41-105 (4); OR

8 (h) ANY APPLICATION OF AN ADJUSTMENT MECHANISM AS
9 AUTHORIZED BY SECTION 40-41-104 (2)(h).

10 **SECTION 27.** In Colorado Revised Statutes, 24-38.5-102,
11 **amend** (1)(n) as follows:

12 **24-38.5-102. Colorado energy office - duties and powers -**
13 **definitions.** (1) The Colorado energy office shall:

14 (n) (I) Provide public utilities with reasonable assistance, if
15 requested, in seeking and obtaining support and sponsorship for an IGCC
16 project ~~as defined in section 40-2-123 (2)(b)(I), C.R.S.,~~ and manage and
17 distribute to the utility some or all of any funds provided by the state or
18 by the United States government to the state for purposes of study or
19 development of an IGCC project. ~~as specified in section 40-2-123 (2)(j),~~
20 ~~C.R.S.,~~

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

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

25 (B) DOES NOT EXCEED THREE HUNDRED FIFTY MEGAWATTS
26 NAMEPLATE CAPACITY; EXCEPT THAT IT MAY EXCEED THIS CAPACITY IF
27 THE COLORADO ENERGY OFFICE DETERMINES THAT A LARGER SIZE IS

1 NECESSARY TO OBTAIN THE BENEFITS OF FEDERAL COST-SHARING,
2 FINANCIAL GRANTS OR TAX BENEFITS, OR OTHER FINANCIAL
3 OPPORTUNITIES OR ARRANGEMENTS BENEFITTING THE PROJECT,
4 INCLUDING OPPORTUNITIES TO JOINTLY DEVELOP THE PROJECT WITH
5 OTHER ELECTRIC UTILITIES;

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

8 (D) INCLUDES METHODS AND PROCEDURES TO MONITOR THE FATE
9 OF THE CARBON DIOXIDE CAPTURED AND SEQUESTERED FROM THE
10 FACILITY; AND

11 (E) IS LOCATED IN COLORADO.

12 (III) AS USED IN THIS SUBSECTION (1)(n), "IGCC FACILITY" MEANS
13 AN INTEGRATED GASIFICATION COMBINED CYCLE GENERATION FACILITY
14 THAT CONVERTS COAL TO A GASEOUS FUEL FROM WHICH IMPURITIES ARE
15 REMOVED PRIOR TO COMBUSTION, USES THE GASEOUS FUEL IN A
16 COMBUSTION TURBINE TO PRODUCE ELECTRICITY, AND CAPTURES THE
17 WASTE HEAT FROM THE COMBUSTION TURBINE TO DRIVE A STEAM TURBINE
18 TO PRODUCE MORE ELECTRICITY. AN IGCC FACILITY MAY ALSO USE
19 NATURAL GAS, IN ADDITION TO GASIFIED COAL, AS A FUEL IN THE
20 COMBUSTION TURBINE.

21 **SECTION 28.** In Colorado Revised Statutes, 40-10.1-111,
22 **amend** (1)(c)(I) as follows:

23 **40-10.1-111. Filing, issuance, and annual fees.** (1) A motor
24 carrier shall pay the commission the following fees in amounts prescribed
25 in this section or, if not prescribed in this section, as set administratively
26 by the commission with approval of the executive director of the
27 department of regulatory agencies:

1 (c) (I) The filing fee for a permit to operate under part 4 OR PART
2 8 of this ~~article~~ ARTICLE 10.1 is one hundred fifty dollars.

3 **SECTION 29. Severability.** If any provision of this act or the
4 application thereof to any person, circumstance, or transaction is held by
5 a court of competent jurisdiction to be unconstitutional or invalid, the
6 unconstitutionality or invalidity does not affect the constitutionality or
7 validity of any other provision of this act or its application or validity to
8 any person, circumstance, or transaction, including, without limitation,
9 the irrevocability of a financing order issued pursuant to this act, the
10 validity of the issuance of CO-EI bonds, the imposition of CO-EI charges,
11 the transfer or assignment of CO-EI property, or the collection and
12 recovery of CO-EI charges. To these ends, the general assembly hereby
13 declares that the provisions of this act are intended to be severable and
14 that the general assembly would have enacted this section even if any
15 provision of this act held to be unconstitutional or invalid had not been
16 included in the act.

17 **SECTION 30. Appropriation.** (1) For the 2019-20 state
18 fiscal year, \$907,566 is appropriated to the department of regulatory
19 agencies. This appropriation is from the public utilities commission fixed
20 utility fund created in section 40-2-114 (1)(b)(II), C.R.S. To implement
21 this act, the department may use this appropriation as follows:

22 (a) \$675,343 for use by the public utilities commission for personal
23 services, which amount is based on an assumption that the commission
24 will require an additional 7.5 FTE;

25 (b) \$45,689 for use by the public utilities commission for operating
26 expenses; and

27 (c) \$186,534 for the purchase of legal services.

1 (2) For the 2019-20 state fiscal year, \$186,534 is appropriated to
2 the department of law. This appropriation is from reappropriated funds
3 received from the department of regulatory agencies under subsection
4 (1)(c) of this section and is based on an assumption that the department
5 of law will require an additional 1.0 FTE. To implement this act, the
6 department of law may use this appropriation to provide legal services for
7 the department of regulatory agencies.

8 (3) For the 2019-20 state fiscal year, \$163,820 is appropriated to
9 the department of public health and environment for use by the air
10 pollution control division. This appropriation is from the general fund. To
11 implement this act, the division may use this appropriation as follows:

12 (a) \$152,514 for personal services related to stationary sources,
13 which amount is based on an assumption that the division will require an
14 additional 1.8 FTE; and

15 (b) \$11,306 for operating expenses related to stationary sources.

16 **SECTION 31. Applicability.** This act applies to conduct,
17 including power purchase agreements entered into and utility rate-based
18 property development, occurring on or after the effective date of this act.

19 **SECTION 32. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.