

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

REREVISED

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

LLS NO. 21-0365.01 Jennifer Berman x3286

SENATE BILL 21-103

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A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE OFFICE OF CONSUMER**
102 **COUNSEL, AND, IN CONNECTION THEREWITH, IMPLEMENTING**
103 **THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET**
104 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES**
105 **REGARDING THE OFFICE OF CONSUMER COUNSEL AND THE**
106 **UTILITY CONSUMERS' BOARD, AND 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

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 3rd Reading
June 7, 2021

HOUSE
Amended 2nd Reading
June 4, 2021

SENATE
3rd Reading Unamended
April 28, 2021

SENATE
Amended 2nd Reading
April 27, 2021

Committee. The bill implements the recommendations of the department of regulatory agencies' (department) sunset review and report regarding the office of consumer counsel (office) and the utility consumers' board (board) by:

- Continuing the office and the board for 7 years, to 2028 (**sections 1 and 2** of the bill);
- Clarifying that, in addition to being authorized to appear before and participate in the public utilities commission's proceedings, the office is authorized to appear before and participate in other agencies' proceedings (**sections 6 and 8**);
- Changing the name of the office to the office of the utility consumer advocate and the name of the head of the office from the consumer counsel to the director (**sections 1 and 4 to 10**);
- Changing the board from a **type 1** transfer to a **type 2** transfer (**sections 4 and 10**);
- Repealing requirements that the board annually review the office's performance and confer with the executive director of the department regarding hiring and performance evaluation matters (**section 4**); and
- Repealing the requirement that members of the board represent all 7 of the state's congressional districts and instead requiring that appointing authorities ensure that the board's membership reflect the greatest degree of diversity possible (**section 4**).

Sections 3 and 11 to 13 make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (21)(a)(V); and **add** (29)(a)(XIII) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (21) (a) The following agencies, functions, or both,
7 will repeal on September 1, 2021:

8 (V) ~~The office of consumer counsel created in article 6.5 of title~~
9 ~~40, C.R.S.;~~

10 (29) (a) The following agencies, functions, or both, are scheduled

1 for repeal on September 1, 2028:

2 (XIII) NOTWITHSTANDING SUBSECTION (7)(a) OF THIS SECTION,
3 THE OFFICE OF THE UTILITY CONSUMER ADVOCATE AND THE UTILITY
4 CONSUMERS' BOARD CREATED IN ARTICLE 6.5 OF TITLE 40.

5 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
6 **with amendments,** 40-6.5-108 as follows:

7 **40-6.5-108. Repeal of article - office of the utility consumer**
8 **advocate subject to termination.** THIS ARTICLE 6.5 IS REPEALED,
9 EFFECTIVE SEPTEMBER 1, 2028. BEFORE THE REPEAL, THIS ARTICLE 6.5 IS
10 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

11 **SECTION 3.** In Colorado Revised Statutes, 40-6.5-101, **amend**
12 the introductory portion; and **add** (1.3), (2.2), (2.4), (2.8), and (6) as
13 follows:

14 **40-6.5-101. Definitions.** As used in this ~~article~~ ARTICLE 6.5,
15 unless the context otherwise requires:

16 (1.3) "BOARD" MEANS THE UTILITY CONSUMERS' BOARD CREATED
17 IN SECTION 40-6.5-102 (3)(a).

18 (2.2) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE,
19 APPOINTED PURSUANT TO SECTION 40-6.5-102 (1).

20 (2.4) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
21 THE DEPARTMENT OF REGULATORY AGENCIES, APPOINTED PURSUANT TO
22 SECTION 24-34-101 (1)(a).

23 (2.8) "OFFICE" MEANS THE OFFICE OF THE UTILITY CONSUMER
24 ADVOCATE CREATED IN SECTION 40-6.5-102 (1).

25 (6) "TELECOMMUNICATIONS SERVICE" MEANS THE OFFERING OF
26 TELECOMMUNICATIONS FOR A FEE DIRECTLY TO THE PUBLIC, OR TO SUCH
27 CLASSES OF USERS AS TO BE EFFECTIVELY AVAILABLE DIRECTLY TO THE

1 PUBLIC, REGARDLESS OF THE FACILITIES USED.

2 **SECTION 4.** In Colorado Revised Statutes, **amend** 40-6.5-102
3 as follows:

4 **40-6.5-102. Office of the utility consumer advocate and utility**
5 **consumers' board - creation - appointment - attorney general to**
6 **represent.** (1) There is hereby created, as a division within the
7 department of regulatory agencies, the office of ~~consumer counsel~~ THE
8 UTILITY CONSUMER ADVOCATE, the head of which ~~shall be the consumer~~
9 ~~counsel~~ IS THE DIRECTOR, who shall be appointed by the executive
10 director of the ~~department of regulatory agencies~~ pursuant to section 13
11 of article XII of the state constitution.

12 (2) (a) The office of ~~consumer counsel~~ shall exercise its powers
13 and perform its duties and functions specified in this ~~article~~ ARTICLE 6.5
14 under the department of regulatory agencies as if the same were
15 transferred to the department by a **type 1** transfer, as such transfer is
16 defined in the "Administrative Organization Act of 1968", article 1 of title
17 24. ~~C.R.S.~~

18 (b) ~~Repealed.~~

19 (3) (a) The utility consumers' board, which is hereby created, shall
20 guide the policy of the office. ~~of consumer counsel.~~ The board shall
21 exercise its powers and perform its duties and functions specified in this
22 ~~article~~ ARTICLE 6.5 under the department of regulatory agencies and the
23 executive director of the ~~department of regulatory agencies~~ as if the same
24 were transferred to the department by a ~~type 1~~ **TYPE 2** transfer, as such
25 transfer is defined in the "Administrative Organization Act of 1968",
26 article 1 of title 24. ~~C.R.S.~~

27 (b) (I) The board consists of eleven members, seven of whom the

1 governor ~~shall appoint~~ APPOINTS. The governor shall appoint at least one
2 member who is actively engaged in agriculture as a business and at least
3 two members who are owners of small businesses with one hundred or
4 fewer employees. In making appointments to the board, the governor
5 shall ensure that the membership of the board represents each of the seven
6 congressional districts of the state and that no more than four of the
7 governor's appointments are affiliated with the same political party. The
8 president of the senate, the speaker of the house of representatives, the
9 minority leader of the senate, and the minority leader of the house of
10 representatives shall each appoint one member of the board.

11 (II) Members of the board ~~shall be appointed for~~ SERVE terms of
12 four years. If a person has any conflict of interest with the duties required
13 of a member of the board, the ~~person~~ APPOINTING AUTHORITY shall not ~~be~~
14 ~~appointed~~ APPOINT THE PERSON as a member of the board. The official
15 who appointed a board member may remove that board member for
16 misconduct, incompetence, or neglect of duty. Board members serve
17 without compensation, but members who reside outside the counties of
18 Denver, Jefferson, Adams, Arapahoe, Boulder, Broomfield, and Douglas
19 are entitled to reimbursement for reasonable AND actual expenses to
20 attend board meetings in Denver. The board shall meet at least six times
21 per year.

22 (c) It is the duty of the board to represent the public interest of
23 Colorado utility users, and, specifically, the interests of residential,
24 agricultural, and small business users, by providing general policy
25 guidance and oversight for the office ~~of consumer counsel~~ and the
26 ~~consumer counsel~~ DIRECTOR in the performance of their statutory duties
27 and responsibilities as specified in this ~~article~~ ARTICLE 6.5. The powers

1 and duties of the board shall include ~~but not be limited to~~, the following:

2 (I) Providing general policy guidance to the office ~~of consumer~~
3 ~~counsel~~ regarding rule-making matters, legislative projects, general
4 activities, and priorities of the office; AND

5 (II) Gathering data and information and formulating policy
6 positions to advise the office ~~of consumer counsel~~ in preparing analysis
7 and testimony in legislative hearings on proposed legislation affecting the
8 interests of residential, small business, and agricultural utility users.

9 ~~(III) Reviewing the performance of the office of consumer~~
10 ~~counsel annually;~~

11 ~~(IV) Conferring with the executive director of the department of~~
12 ~~regulatory agencies on the hiring of the consumer counsel and consulting~~
13 ~~with such executive director on the annual performance evaluation of the~~
14 ~~office of consumer counsel and the consumer counsel.~~

15 (4) It is the duty of the attorney general to advise the office ~~of~~
16 ~~consumer counsel~~ and the board in all legal matters and to provide
17 representation in proceedings in which the office ~~of consumer counsel~~
18 participates.

19 **SECTION 5.** In Colorado Revised Statutes, **amend** 40-6.5-103
20 as follows:

21 **40-6.5-103. Qualifications of the director - conflict of interest.**

22 The ~~consumer counsel shall~~ DIRECTOR MUST have at least five years of
23 experience in consumer-related utility issues or in the operation,
24 management, or regulation of utilities as either an attorney, an engineer,
25 an economist, an accountant, a financial analyst, or an administrator or
26 any combination ~~thereof.~~ ~~NO~~ OF THOSE ROLES. THE EXECUTIVE DIRECTOR
27 SHALL NOT APPOINT AS DIRECTOR A ~~person owning~~ WHO OWNS stocks or

1 bonds in a corporation subject in whole or in part to regulation by the
2 commission or who has any pecuniary interest in such corporation. ~~shall~~
3 ~~be appointed as consumer counsel.~~

4 **SECTION 6.** In Colorado Revised Statutes, **amend** 40-6.5-104
5 as follows:

6 **40-6.5-104. Representation by director - powers of the office.**

7 (1) The ~~consumer counsel~~ DIRECTOR shall represent the public interest
8 and, to the extent consistent therewith, the specific interests of residential
9 consumers, agricultural consumers, and small business consumers by
10 appearing in proceedings before the commission and appeals therefrom
11 in matters which THAT involve proposed changes in a public utility's rates
12 and charges; in matters involving rule-making which THAT have an
13 impact on the charges, the provision of services, or the rates to
14 consumers; and in matters which THAT involve certificates of public
15 convenience and necessity for facilities employed in the provision of
16 utility service, the construction of which would have a material effect on
17 the utility's rates and charges.

18 (2) In ~~exercising his discretion~~ DETERMINING whether ~~or not~~ to
19 appear in a proceeding OF THE COMMISSION, the ~~consumer counsel~~
20 DIRECTOR shall consider the importance and the extent of the public
21 interest involved. In evaluating the public interest, INCLUDING THE IMPACT
22 ON RATES AND CHARGES TO CONSUMERS, the ~~consumer counsel~~ DIRECTOR
23 shall give due consideration to STATUTORY DECARBONIZATION GOALS SET
24 FORTH IN SECTIONS 40-2-125.5 (3) AND 25-7-102 (2)(g), JUST TRANSITION
25 IN ACCORDANCE WITH SECTION 40-2-133, ENVIRONMENTAL JUSTICE, AND
26 the short- and long-term ~~impact~~ EFFECT of the proceedings upon various
27 classes of consumers, so as not to jeopardize the interest of one class in

1 an action by another. If the ~~consumer counsel~~ DIRECTOR determines that
2 there may be inconsistent interests among the various classes of the
3 consumers ~~he~~ THAT THE DIRECTOR represents in a particular matter, ~~he~~
4 THE DIRECTOR may choose to represent one of the interests or to represent
5 no interest. Nothing in this section ~~shall be construed to limit~~ LIMITS the
6 right of any person ~~firm, or corporation~~ to petition or make complaint to
7 the commission ___ or otherwise intervene in proceedings or other matters
8 before the commission.

9 (3) The ~~consumer counsel~~ DIRECTOR shall be served with notices
10 of all proposed gas and electric tariffs, and ~~he or she~~ THE DIRECTOR shall
11 be served with copies of all orders of the commission ___ affecting the
12 charges of agricultural consumers, residential consumers, and small
13 business consumers.

14 (4) THE OFFICE MAY INTERVENE IN MATTERS BEFORE THE
15 COMMISSION THAT RELATE TO A TELECOMMUNICATIONS SERVICE
16 PROCEEDING, INCLUDING A RULE-MAKING PROCEEDING, THAT HAS AN
17 IMPACT ON THE PROVISION OR QUALITY OF TELECOMMUNICATIONS
18 SERVICE.

19 (5) THE OFFICE SHALL NOT RECOMMEND THAT THE COMMISSION
20 TAKE ANY ACTION THAT WOULD INTERFERE WITH THE ADMINISTRATION OR
21 DETERMINATION OF EMPLOYEES' WAGES, HEALTH INSURANCE, OR
22 RETIREMENT BENEFITS NEGOTIATED BETWEEN A REGULATED UTILITY AND
23 A LABOR UNION THROUGH COLLECTIVE BARGAINING.

24 **SECTION 7.** In Colorado Revised Statutes, 40-6.5-105, **amend**
25 (1) introductory portion and (1)(a) as follows:

26 **40-6.5-105. Intervenors other than the office of the utility**
27 **consumer advocate.** (1) If the office of ~~consumer counsel~~ intervenes and

1 there are other intervenors in proceedings before the commission, the
2 determination of said commission with regard to the payment of expenses
3 of intervenors, other than the office, ~~of consumer counsel~~, and the
4 amounts thereof shall be based on the following considerations:

5 (a) Any reimbursements may be awarded only for expenses
6 related to issues not substantially addressed by the office; ~~of consumer~~
7 ~~counsel~~;

8 **SECTION 8.** In Colorado Revised Statutes, 40-6.5-106, **amend**
9 (1) introductory portion, (1)(a), (1)(c), (2), (2.5), and (3)(a); and **add**
10 (1)(e) and (4) as follows:

11 **40-6.5-106. Powers of the director.** (1) The ~~consumer counsel~~
12 DIRECTOR:

13 (a) May employ such attorneys, engineers, economists,
14 accountants, or other employees as may be necessary to carry out his THE
15 DIRECTOR'S duties; and shall employ a maximum of sixteen full-time
16 employees or the equivalent thereof;

17 (c) May contract for the services of technically qualified persons
18 to perform research and to appear as expert witnesses before the
19 commission. such persons to be paid. THE DIRECTOR SHALL PAY ANY
20 PERSON CONTRACTED WITH PURSUANT TO THIS SUBSECTION (1)(c) from
21 funds appropriated for the DIRECTOR'S use. ~~of the consumer counsel~~;

22 (e) (I) MAY INSPECT THE RECORDS AND DOCUMENTS OF ANY
23 PUBLIC UTILITY AND CONDUCT DEPOSITIONS UNDER OATH OF ANY OFFICER,
24 AGENT, OR EMPLOYEE OF A PUBLIC UTILITY IN RELATION TO THE PUBLIC
25 UTILITY'S BUSINESS AND AFFAIRS. TO EXERCISE THIS AUTHORITY, THE
26 DIRECTOR SHALL REQUEST THAT THE COMMISSION ISSUE A SUBPOENA
27 PURSUANT TO THE COMMISSION'S AUTHORITY UNDER SECTION 40-6-103 (1)

1 TO:

2 (A) ISSUE A SUBPOENA ON A PUBLIC UTILITY REQUIRING THE
3 PUBLIC UTILITY TO PRODUCE RECORDS OR DOCUMENTS, OR, FOR RECORDS
4 OR DOCUMENTS KEPT OUTSIDE OF THE STATE, TO PRODUCE VERIFIED
5 COPIES OF RECORDS OR DOCUMENTS, FOR INSPECTION BY THE OFFICE AT
6 SUCH TIME AND PLACE THAT THE COMMISSION DESIGNATES; OR

7 (B) ISSUE A SUBPOENA FOR THE ATTENDANCE OF WITNESSES AT A
8 DEPOSITION TO BE CONDUCTED BY THE DIRECTOR OR THE DIRECTOR'S
9 DESIGNEE AT SUCH TIME AND PLACE THAT THE COMMISSION DESIGNATES.
10 THE DIRECTOR OR THE DIRECTOR'S DESIGNEE HAS THE AUTHORITY TO
11 ADMINISTER OATHS OF WITNESSES AT A DEPOSITION HELD PURSUANT TO
12 THIS SUBSECTION (1)(e)(I).

13 (II) WITH RESPECT TO THE GOOD CAUSE SHOWN REQUIREMENT SET
14 FORTH IN SECTION 40-6-103 (1) FOR THE ISSUANCE OF A SUBPOENA, GOOD
15 CAUSE IS SHOWN FOR A REQUEST MADE PURSUANT TO THIS SUBSECTION
16 (1)(e) IF THE DIRECTOR'S REQUEST IDENTIFIES THE TESTIMONY, RECORDS,
17 OR DOCUMENTS SOUGHT PURSUANT TO THIS SUBSECTION (1)(e).

18 (2) The ~~consumer counsel~~ DIRECTOR may petition for, request,
19 initiate, and appear and intervene as a party in any COMMISSION _____
20 proceeding, ~~before the commission concerning~~ INCLUDING A
21 RULE-MAKING PROCEEDING, THAT CONCERNS OR AFFECTS UTILITY rate
22 changes, ~~rule-making~~, charges, tariffs, modifications of service, and
23 matters involving certificates of public convenience and necessity.
24 Notwithstanding any provision of this ~~article~~ ARTICLE 6.5 to the contrary,
25 the ~~consumer counsel~~ DIRECTOR shall not be a party to any individual
26 complaint between a utility and an individual.

27 (2.5) The ~~consumer counsel~~ DIRECTOR may petition for, request,

1 initiate, or seek to intervene in any proceeding before a federal agency
2 ~~which~~ THAT regulates utility rates or service or BEFORE A federal court
3 when the matter before ~~such~~ THE agency or court will affect a rate,
4 charge, tariff, or term of service for a utility product or service for a
5 residential, small business, or agricultural utility consumer in the state of
6 Colorado. The phrase "federal agency ~~which~~ THAT regulates utility rates
7 or service" does not include any federal lending agency.

8 (3) (a) The ~~consumer counsel~~ DIRECTOR and any member of ~~his~~
9 ~~or her~~ THE DIRECTOR'S staff directly involved in a specific adjudicatory
10 proceeding before the commission shall refrain from ex parte
11 communications with members of the commission. The ~~counsel or his or~~
12 ~~her staff shall~~ DIRECTOR AND THE DIRECTOR'S STAFF have all rights and ~~be~~
13 ARE governed by the same ex parte rules as all other intervenors.

14 (4) (a) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL
15 PROVIDE POLICY ANALYSIS TO THE EXECUTIVE DIRECTOR ON LEGISLATIVE
16 MATTERS PENDING BEFORE THE GENERAL ASSEMBLY THAT DIRECTLY
17 RELATE TO THE OFFICE'S MISSION.

18 (b) THE OFFICE MAY PROVIDE PRESENTATIONS AND OTHER FORMS
19 OF EDUCATION TO THE GENERAL ASSEMBLY ON THE TYPES OF MATTERS
20 THAT INVOLVE:

21 (I) PUBLIC UTILITIES' RATES AND CHARGES;

22 (II) THE PROVISION OF SERVICES;

23 (III) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR
24 FACILITIES:

25 (A) THAT ARE OR WOULD BE USED IN PROVIDING UTILITY SERVICE;

26 AND

27 (B) THE CONSTRUCTION OF WHICH WOULD HAVE MATERIAL EFFECT

1 ON A PUBLIC UTILITY'S RATES AND CHARGES; AND

2 (IV) OTHER MATTERS THAT AFFECT THE PUBLIC INTEREST OF THE
3 CONSTITUENTS THAT THE OFFICE REPRESENTS.

4 (c) THE DEPARTMENT OF REGULATORY AGENCIES SHALL
5 ANNUALLY REPORT ON THE OFFICE AS PART OF ITS PRESENTATION TO ITS
6 COMMITTEES OF REFERENCE AT A HEARING HELD PURSUANT TO SECTION
7 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE,
8 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT",
9 INCLUDING REPORTING ON THE FOLLOWING:

10 (I) A SUMMARY OF MATTERS IN WHICH THE OFFICE INTERVENED IN
11 THE PRECEDING YEAR AND THE RESOLUTION, IF ANY, OF THOSE MATTERS;
12 AND

13 (II) A SUMMARY OF THE OFFICE'S OTHER WORK IN THE PRECEDING
14 YEAR.

15 **SECTION 9.** In Colorado Revised Statutes, **amend** 40-6.5-107
16 as follows:

17 **40-6.5-107. Financing of office.** At each regular session, the
18 general assembly shall determine the ~~amounts~~ AMOUNT to be expended
19 by the office ~~of consumer counsel~~ for the direct and indirect costs of
20 administration in performing its duties and responsibilities required by
21 this ~~article~~ ARTICLE 6.5 and shall appropriate THE AMOUNT to the office
22 ~~of consumer counsel~~ from the public utilities commission fixed utility
23 fund ~~AND THE TELECOMMUNICATIONS UTILITY FUND~~ created in section
24 40-2-114. ~~the full amount so determined. No~~ THE GENERAL ASSEMBLY
25 SHALL NOT APPROPRIATE MONEY FROM THE general fund ~~moneys shall be~~
26 ~~appropriated~~ to the office ~~of consumer counsel~~ for the performance of its
27 duties and responsibilities under this ~~article~~ ARTICLE 6.5.

1 **SECTION 10.** In Colorado Revised Statutes, 24-1-122, **amend**
2 (2) introductory portion and (2)(a.5) as follows:

3 **24-1-122. Department of regulatory agencies - creation.**

4 (2) The department of regulatory agencies ~~shall consist~~ CONSISTS of the
5 following divisions:

6 (a.5) The office of ~~consumer counsel~~ THE UTILITY CONSUMER
7 ADVOCATE and the utility consumers' board, created ~~by~~ IN article 6.5 of
8 title 40. ~~C.R.S.~~ The office of ~~consumer counsel~~ THE UTILITY CONSUMER
9 ADVOCATE and its powers, duties, and functions are transferred by a **type**
10 **1** transfer to the department of regulatory agencies as a division ~~thereof~~
11 OF THE DEPARTMENT. The utility consumers' board shall exercise its
12 powers and perform its duties and functions under the department as if
13 the same were transferred to the department by a ~~type 1~~ **TYPE 2** transfer
14 and allocated to the office of ~~consumer counsel~~ THE UTILITY CONSUMER
15 ADVOCATE.

16 **SECTION 11.** In Colorado Revised Statutes, 40-2-114, **amend**
17 (2) as follows:

18 **40-2-114. Disposition of fees collected - telecommunications**
19 **utility fund - fixed utility fund.** (2) ~~Moneys~~ MONEY in the funds created
20 in subsection (1) of this section shall be expended only to defray the full
21 amount determined by the general assembly for the administrative
22 expenses of the commission for the supervision and regulation of the
23 public utilities paying the fees and for the financing of the office of
24 ~~consumer counsel~~ THE UTILITY CONSUMER ADVOCATE created in article
25 6.5 of this ~~title~~ TITLE 40. The state treasurer shall retain any unexpended
26 balance remaining in either fund at the end of any fiscal year to defray the
27 administrative expenses of the commission during subsequent fiscal

1 years, and the executive director of the department of revenue shall take
2 any such unexpended balance into account when computing the
3 percentage upon which fees for the ensuing fiscal year will be based.

4 **SECTION 12.** In Colorado Revised Statutes, 40-2-122, **amend**
5 (3)(c) introductory portion, (3)(c)(XI), (5), and (10) as follows:

6 **40-2-122. Natural gas - deregulation of supply - voluntary**
7 **separation of service offerings - consumer protection - legislative**
8 **declaration.** (3) (c) The commission shall not approve a plan submitted
9 pursuant to ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS
10 SECTION unless the price charged for natural gas delivery services does
11 not subsidize natural gas supply service under the plan and, in addition,
12 the plan:

13 (XI) Provides for funding of the commission and the office of
14 ~~consumer counsel~~ THE UTILITY CONSUMER ADVOCATE based upon a
15 charge to end-use customers, as determined by the commission, as a part
16 of the natural gas delivery function, regardless of the identity of the
17 natural gas supplier. Such new funding method ~~shall~~ MUST be
18 competitively neutral and shall be designed to generate annual revenues
19 equivalent to the average annual revenues generated under sections
20 40-2-109 to 40-2-114 during calendar years 1994 to 1998 associated with
21 the sale of natural gas service from the geographic area or group of
22 customers affected by the plan. Whenever such new funding method is
23 instituted for any specific geographic area or group of customers, the
24 natural gas public utilities serving ~~such~~ THE area or group shall no longer
25 pay the fees that would otherwise have been required under ~~said~~ THE
26 sections.

27 (5) The department of revenue is hereby authorized to collect

1 funding for the commission and the office of ~~consumer counsel~~ THE
2 UTILITY CONSUMER ADVOCATE in accordance with ~~subparagraph (XI) of~~
3 ~~paragraph (c) of subsection (3)~~ SUBSECTION (3)(c)(XI) of this section.

4 (10) The general assembly determines that a new funding formula
5 should be devised to adequately fund the commission's and office of
6 ~~consumer counsel's~~ THE UTILITY CONSUMER ADVOCATE'S administrative
7 expenses. On or before December 1, 2000, the commission and the office
8 ~~of consumer counsel~~ shall recommend to the general assembly those
9 legislative changes needed to develop appropriate funding mechanisms
10 for the public utilities commission and the office. ~~of consumer counsel.~~
11 This provision is intended to provide a comprehensive replacement for
12 the funding method contained in the utility plan under ~~subparagraph (XI)~~
13 ~~of paragraph (c) of subsection (3)~~ SUBSECTION (3)(c)(XI) of this section.

14 **SECTION 13.** In Colorado Revised Statutes, 40-3-104.3, **amend**
15 (1)(b) and (1)(e) as follows:

16 **40-3-104.3. Manner of regulation - competitive responses -**
17 **definitions - repeal.** (1) (b) (I) Following a notice period of five days
18 after the filing of an application under this section, the commission shall
19 approve or deny the application within thirty days. All applications filed
20 with the commission pursuant to this section shall be placed at the head
21 of the commission's docket and shall be disposed of promptly within the
22 time periods set forth in this ~~paragraph (b)~~ SUBSECTION (1)(b)(I); except
23 that, for good cause shown, the commission may extend the period in
24 which it must act for an additional fifteen days, or, in extraordinary
25 circumstances, including ~~but not limited to~~ the existence of numerous
26 pending applications under this section, the commission may extend the
27 period in which it must act for an additional thirty days beyond the fifteen

1 days provided for in this ~~paragraph (b)~~ SUBSECTION (1)(b)(I).

2 (II) Whenever ~~such~~ THE application is continued as provided in
3 ~~this paragraph (b)~~ SUBSECTION (1)(b)(I) OF THIS SECTION, the commission
4 shall enter an order making ~~such~~ THE continuance and stating fully the
5 facts necessitating the continuance. If the commission has not approved
6 or denied ~~any such~~ AN application within the time periods set forth in ~~this~~
7 ~~paragraph (b)~~ SUBSECTION (1)(b)(I) OF THIS SECTION, the application shall
8 be deemed approved. If the commission denies ~~any such~~ AN application
9 for approval within the permitted period, the subject contract ~~shall~~ DOES
10 not become effective.

11 (III) Any contract submitted pursuant to this section shall be filed
12 under seal and treated as confidential by the commission; except that, at
13 the time the applicant files an application or contract with the
14 commission, the applicant shall also furnish a copy of the application to
15 any public utility then providing electric, gas, or steam service in the state
16 of Colorado to the customer, and also furnish a copy to the office of
17 ~~consumer counsel, and~~ the UTILITY CONSUMER ADVOCATE, WHICH office
18 ~~of consumer counsel~~ shall also treat ~~said~~ THE contract as confidential.

19 (e) Within ten days after the execution of ~~such~~ THE contract, the
20 public utility shall file with the commission under seal and as a
21 confidential document the final contract or other description of the price
22 and terms of service, together with any additional information required by
23 the commission. The applicant shall also furnish a copy of ~~such~~ THE
24 information to the office of ~~consumer counsel, who~~ THE UTILITY
25 CONSUMER ADVOCATE, WHICH OFFICE shall treat the information as
26 confidential. The commission ~~shall have~~ HAS no authority to disapprove
27 the contract if the contract complies with the conditions contained in

1 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION,
2 but the commission may consider the contract for general regulatory
3 purposes and to ensure compliance with the requirements of this section.

4 **SECTION 14. Appropriation.** (1) For the 2021-22 state fiscal
5 year, \$453,941 is appropriated to the department of regulatory agencies.
6 This appropriation is from the fixed utility fund created in section
7 40-2-114 (1)(b)(II), C.R.S. To implement this act, the department may use
8 this appropriation as follows:

9 (a) \$265,311 for use by the office of the utility consumer advocate
10 for personal services, which amount is based on an assumption that the
11 office will require an additional 3.2 FTE;

12 (b) \$29,120 for use by the office of the utility consumer advocate
13 for operating expenses; and

14 (c) \$159,510 for the purchase of legal services.

15 (2) For the 2021-22 state fiscal year, \$159,510 is appropriated to
16 the department of law. This appropriation is from reappropriated funds
17 received from the department of regulatory agencies under subsection
18 (1)(c) of this section and is based on an assumption that the department
19 of law will require an additional 0.8 FTE. To implement this act, the
20 department of law may use this appropriation to provide legal services for
21 the department of regulatory agencies.

22 **SECTION 15. Effective date.** This act takes effect September 1,
23 2021.

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