

1 (d) COLORADO COMMUNITIES AND WORKERS MAY BE DIRECTLY
2 AFFECTED BY THE CLOSURE OF ELECTRIC GENERATING FACILITIES, AND IT
3 IS IN THE BEST INTEREST OF THE STATE TO ENSURE THAT COLORADO'S
4 WORKFORCE IS ABLE TO ADAPT TO THE STATE'S CHANGING ENERGY
5 PORTFOLIO;

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

15 (f) CUSTOMER COSTS OF ALTERNATIVE FINANCING MECHANISMS
16 CAN BE MINIMIZED BY ACHIEVING THE HIGHEST POSSIBLE CREDIT RATING
17 FROM INDEPENDENT CREDIT RATING AGENCIES, WHICH REQUIRES SPECIAL
18 PROCEDURES AND CONDITIONS INCLUDING:

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

21 (II) THE CREATION OF A PROPERLY STRUCTURED AND
22 IMPLEMENTED ADJUSTMENT MECHANISM TO ADJUST THE CHARGE
23 DEDICATED TO THE REPAYMENT OF THE BONDS TO ENABLE CONSISTENT,
24 ACCURATE, AND TIMELY REMITTANCES TO THE FINANCING ENTITIES FOR
25 THE BENEFIT OF BONDHOLDERS; AND

26 (III) A STATE PLEDGE THAT CONSTITUTES AN ENFORCEABLE
27 PROMISE THAT THE STATE WILL NOT TAKE ANY ACTION THAT WOULD
28 PREVENT, OBSTRUCT, IMPAIR, OR LIMIT THE PAYMENT OF PRINCIPAL AND
29 INTEREST ON SECURITIZED ELECTRIC UTILITY RATEPAYER-BACKED BONDS
30 AS THOSE AMOUNTS BECOME LEGALLY DUE AND OWING; AND

31 (g) TO IMPLEMENT THIS ALTERNATIVE FINANCING MECHANISM, IT
32 IS NECESSARY TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO
33 REVIEW AND APPROVE ONE OR MORE FINANCING ORDERS THAT ADVANCE
34 THESE GOALS IF IT DEEMS SUCH APPROVAL APPROPRIATE AND IN THE
35 INTEREST OF RATEPAYERS.

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

37 (a) IT IS THE POLICY OF THE STATE TO ASSIST COLORADO ELECTRIC
38 GENERATING FACILITY WORKERS WHO ARE DIRECTLY IMPACTED BY THE
39 RETIREMENT OF ELECTRIC GENERATING FACILITIES, THE COMMUNITIES
40 WHERE THE FACILITIES ARE LOCATED, AND THE COMMUNITIES WHERE
41 FUELS FOR THE FACILITIES ARE PRODUCED;

1 (b) IT IS THEREFORE IN THE INTEREST OF THE STATE AND ITS
2 CITIZENS TO ENCOURAGE AND FACILITATE THE USE OF SECURITIZED
3 RATEPAYER-BACKED BONDS AS A METHOD FOR ENABLING ELECTRIC
4 UTILITIES TO LOWER THE COST OF FINANCING THE RETIREMENT OF
5 ELECTRIC GENERATING FACILITIES UNDER CERTAIN CONDITIONS AND TO
6 EMPOWER THE PUBLIC UTILITIES COMMISSION TO REVIEW SUCH
7 SECURITIZATION MECHANISMS TO DETERMINE WHETHER THEY ARE
8 CONSISTENT WITH THE PUBLIC INTEREST AND WORTHY OF APPROVAL;

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

12 (I) TO PROVIDE TRANSITION ASSISTANCE TO COLORADO
13 COMMUNITIES AND ELECTRIC GENERATING FACILITY WORKERS THAT ARE
14 DIRECTLY IMPACTED BY THE RETIREMENT OF ELECTRIC GENERATING
15 FACILITIES;

16 (II) TO LOWER RATES PAID BY ELECTRIC UTILITY CUSTOMERS BY
17 REDUCING FINANCING COSTS OF CERTAIN RETIRED ELECTRIC GENERATING
18 FACILITIES; AND

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

22 (d) AN ADDITIONAL PURPOSE OF THIS ACT IS TO CREATE THE
23 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY TO ASSIST WITH THE
24 ADMINISTRATION OF THE PORTION OF SECURITIZED RATEPAYER-BACKED
25 BOND PROCEEDS THAT IS DEDICATED TO TRANSITION ASSISTANCE FOR
26 DIRECTLY IMPACTED COLORADO COMMUNITIES AND ELECTRIC
27 GENERATING FACILITY WORKERS.

28 **40-41-103. Definitions.** AS USED IN THIS ARTICLE 41 AND FOR USE
29 BY THE COMMISSION, AND IN THE COURSE OF THE REVIEW BY
30 INDEPENDENT CREDIT RATING AGENCIES THAT IS NECESSARY TO ACHIEVE
31 THE HIGHEST POSSIBLE BOND RATINGS, UNLESS THE CONTEXT OTHERWISE
32 REQUIRES:

33 (1) "ANCILLARY AGREEMENT" MEANS ANY BOND, INSURANCE
34 POLICY, LETTER OF CREDIT, RESERVE ACCOUNT, SURETY BOND, INTEREST
35 RATE LOCK OR SWAP ARRANGEMENT, HEDGING ARRANGEMENT, LIQUIDITY
36 OR CREDIT SUPPORT ARRANGEMENT, OR OTHER FINANCIAL ARRANGEMENT
37 ENTERED INTO IN CONNECTION WITH CO-EIA BONDS THAT IS DESIGNED TO
38 PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE CO-EIA
39 BONDS OR TO MITIGATE THE RISK OF AN INCREASE IN INTEREST RATES.

40 (2) "ASSIGNEE" MEANS ANY PERSON TO WHICH AN INTEREST IN
41 CO-EIA PROPERTY IS SOLD, ASSIGNED, TRANSFERRED, OR CONVEYED,

1 OTHER THAN AS SECURITY, AND ANY SUCCESSOR TO OR SUBSEQUENT
2 ASSIGNEE OF SUCH A PERSON.

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

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

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

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

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

27 (8) "CO-EIA CHARGE" MEANS A CHARGE IN AN AMOUNT
28 DETERMINED APPROPRIATE BY THE COMMISSION AND AUTHORIZED BY THE
29 COMMISSION IN A FINANCING ORDER IN ORDER TO PROVIDE A SOURCE OF
30 REVENUE SOLELY TO REPAY, FINANCE, OR REFINANCE CO-EIA COSTS AND
31 FINANCING COSTS THAT ARE IMPOSED ON AND ARE A PART OF ALL
32 CUSTOMER BILLS AND ARE COLLECTED IN FULL BY THE ELECTRIC UTILITY
33 TO WHICH THE FINANCING ORDER APPLIES, ITS SUCCESSORS OR ASSIGNEES,
34 OR A COLLECTION AGENT THROUGH A NONBYPASSABLE CHARGE THAT IS
35 SEPARATE AND APART FROM THE ELECTRIC UTILITY'S BASE RATES.

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

37 (I) (A) AT THE OPTION OF AND UPON PETITION BY AN ELECTRIC
38 UTILITY, AND AS APPROVED BY THE COMMISSION PURSUANT TO SECTION
39 40-41-105, THE PRETAX COSTS THAT THE ELECTRIC UTILITY HAS INCURRED
40 OR WILL INCUR THAT ARE CAUSED BY, ASSOCIATED WITH, OR REMAIN AS
41 A RESULT OF THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY

1 LOCATED IN THE STATE.

2 (B) AS USED IN THIS SUBSECTION (9), "PRETAX COSTS", IF
3 APPROVED BY THE COMMISSION, INCLUDE, BUT ARE NOT LIMITED TO, THE
4 UNRECOVERED CAPITALIZED COST OF A RETIRED ELECTRIC GENERATING
5 FACILITY, COSTS OF DECOMMISSIONING AND RESTORING THE SITE OF THE
6 ELECTRIC GENERATING FACILITY, AND OTHER APPLICABLE CAPITAL AND
7 OPERATING COSTS, ACCRUED CARRYING CHARGES, DEFERRED EXPENSES,
8 REDUCTIONS FOR APPLICABLE INSURANCE AND SALVAGE PROCEEDS AND
9 THE COSTS OF RETIRING ANY EXISTING INDEBTEDNESS, FEES, COSTS, AND
10 EXPENSES TO MODIFY EXISTING DEBT AGREEMENTS OR FOR WAIVERS OR
11 CONSENTS RELATED TO EXISTING DEBT AGREEMENTS.

12 (II) AMOUNTS REQUIRED TO BE TRANSFERRED TO THE AUTHORITY
13 FOR TRANSITION ASSISTANCE AND THE PAYMENT OF THE AUTHORITY'S
14 REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS
15 REQUIRED BY A FINANCING ORDER.

16 (III) PRETAX COSTS THAT AN ELECTRIC UTILITY HAS PREVIOUSLY
17 INCURRED RELATED TO THE COMMISSION-APPROVED CLOSURE OF AN
18 ELECTRIC GENERATING FACILITY OCCURRING BEFORE THE EFFECTIVE DATE
19 OF THIS SECTION.

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

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

25 (a) ALL RIGHTS AND INTERESTS OF AN ELECTRIC UTILITY OR
26 SUCCESSOR OR ASSIGNEE OF AN ELECTRIC UTILITY UNDER A FINANCING
27 ORDER FOR THE RIGHT TO IMPOSE, BILL, COLLECT, AND RECEIVE CO-EIA
28 CHARGES AS IT IS AUTHORIZED TO DO SOLELY UNDER THE FINANCING
29 ORDER AND TO OBTAIN PERIODIC ADJUSTMENTS TO SUCH CO-EIA
30 CHARGES AS PROVIDED IN THE FINANCING ORDER; AND

31 (b) ALL REVENUE, COLLECTIONS, CLAIMS, RIGHTS TO PAYMENTS,
32 PAYMENTS, MONEY, OR PROCEEDS ARISING FROM THE RIGHTS AND
33 INTERESTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION,
34 REGARDLESS OF WHETHER SUCH REVENUE, COLLECTIONS, CLAIMS, RIGHTS
35 TO PAYMENT, PAYMENTS, MONEY, OR PROCEEDS ARE IMPOSED, BILLED,
36 RECEIVED, COLLECTED, OR MAINTAINED TOGETHER WITH OR COMMINGLED
37 WITH OTHER REVENUE, COLLECTIONS, RIGHTS TO PAYMENT, PAYMENTS,
38 MONEY, OR PROCEEDS.

39 (11) "CO-EIA REVENUE" MEANS ALL REVENUE, RECEIPTS,
40 COLLECTIONS, PAYMENTS, MONEY, CLAIMS, OR OTHER PROCEEDS ARISING
41 FROM CO-EIA PROPERTY.

1 (12) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
2 THE STATE OF COLORADO.

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

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

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

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

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

24 (c) ANY OTHER DEMONSTRABLE COSTS RELATED TO ISSUING,
25 SUPPORTING, REPAYING, REFUNDING, AND SERVICING CO-EIA BONDS,
26 INCLUDING, BUT NOT LIMITED TO, SERVICING FEES, ACCOUNTING AND
27 AUDITING FEES, TRUSTEE FEES, LEGAL FEES, CONSULTING FEES, FINANCIAL
28 ADVISOR FEES, ADMINISTRATIVE FEES, PLACEMENT AND UNDERWRITING
29 FEES, CAPITALIZED INTEREST, RATING AGENCY FEES, STOCK EXCHANGE
30 LISTING AND COMPLIANCE FEES, SECURITY REGISTRATION FEES, FILING
31 FEES, INFORMATION TECHNOLOGY PROGRAMMING COSTS, AND ANY OTHER
32 DEMONSTRABLE COSTS NECESSARY TO OTHERWISE ENSURE AND
33 GUARANTEE THE TIMELY PAYMENT OF CO-EIA BONDS OR OTHER
34 AMOUNTS OR CHARGES PAYABLE IN CONNECTION WITH CO-EIA BONDS;

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

37 (e) ANY STATE AND LOCAL TAXES, INCLUDING FRANCHISE, SALES
38 AND USE, AND OTHER TAXES OR SIMILAR CHARGES, INCLUDING, BUT NOT
39 LIMITED TO, REGULATORY ASSESSMENT FEES, WHETHER PAID, PAYABLE,
40 OR ACCRUED; AND

41 (f) ANY COSTS INCURRED BY AN ELECTRIC UTILITY TO PAY THE

1 COMMISSION'S COSTS OF ENGAGING SPECIALIZED COUNSEL AND EXPERT
2 CONSULTANTS EXPERIENCED IN SECURITIZED ELECTRIC UTILITY
3 RATEPAYER-BACKED BOND FINANCING SIMILAR TO CO-EIA BONDS AS
4 AUTHORIZED BY SECTION 40-41-108 (4).

5 (16) "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION
6 ISSUED PURSUANT TO SECTION 40-41-105 THAT GRANTS, IN WHOLE OR IN
7 PART, AN APPLICATION FILED PURSUANT TO SECTION 40-41-104 AND THAT
8 AUTHORIZES THE ISSUANCE OF CO-EIA BONDS IN ONE OR MORE SERIES,
9 THE IMPOSITION, CHARGING, AND COLLECTION OF CO-EIA CHARGES, AND
10 THE CREATION OF CO-EIA PROPERTY. IN A FINANCING ORDER, THE
11 COMMISSION MAY INCLUDE ANY CONDITIONS THAT ARE NECESSARY TO
12 PROMOTE THE PUBLIC INTEREST AND MAY GRANT RELIEF THAT IS
13 DIFFERENT FROM THAT WHICH WAS REQUESTED IN THE APPLICATION SO
14 LONG AS THE RELIEF IS WITHIN THE SCOPE OF THE MATTERS ADDRESSED IN
15 THE COMMISSION'S NOTICE OF THE APPLICATION.

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

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

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

26 (a) ALL EXISTING AND FUTURE CUSTOMERS RECEIVING RETAIL
27 ELECTRICITY USING UTILITY TRANSMISSION OR DISTRIBUTION FACILITIES
28 FROM THE ELECTRIC UTILITY OR ITS SUCCESSORS OR ASSIGNEES UNDER
29 COMMISSION-APPROVED RATE SCHEDULES OR UNDER SPECIAL CONTRACTS,
30 EVEN IF A CUSTOMER ELECTS TO PURCHASE ELECTRICITY FROM AN
31 ELECTRIC SUPPLIER OTHER THAN THE UTILITY; AND

32 (b) ANY PERSON LOCATED WITHIN THE ELECTRIC UTILITY SERVICE
33 AREA THAT MAY SUBSEQUENTLY RECEIVE RETAIL ELECTRICITY USING
34 UTILITY TRANSMISSION OR DISTRIBUTION FACILITIES FROM ANOTHER
35 ELECTRIC UTILITY OPERATING IN THE SAME SERVICE AREA.

36 (20) "SUCCESSOR" MEANS, WITH RESPECT TO ANY LEGAL ENTITY,
37 ANOTHER LEGAL ENTITY THAT SUCCEEDS BY OPERATION OF LAW TO THE
38 RIGHTS AND OBLIGATIONS OF THE FIRST LEGAL ENTITY PURSUANT TO ANY
39 BANKRUPTCY, REORGANIZATION, RESTRUCTURING, OTHER INSOLVENCY
40 PROCEEDING, MERGER, ACQUISITION, CONSOLIDATION, OR SALE OR
41 TRANSFER OF ASSETS, WHETHER ANY OF THESE OCCUR DUE TO A

1 RESTRUCTURING OF THE ELECTRIC POWER INDUSTRY OR OTHERWISE.
2 (21) "TRANSITION ASSISTANCE" MEANS ASSISTANCE PROVIDED BY
3 OR DIRECTED BY THE AUTHORITY USING CO-EIA BOND PROCEEDS
4 TRANSFERRED BY AN ELECTRIC UTILITY TO THE AUTHORITY PURSUANT TO
5 THE TERMS OF A FINANCING ORDER TO ASSIST COLORADO COMMUNITIES
6 THAT ARE DIRECTLY IMPACTED BY THE RETIREMENT OF AN ELECTRIC
7 GENERATING FACILITY AND MAY INCLUDE, WITHOUT LIMITATION:
8 (a) PAYMENT OF RETRAINING COSTS, INCLUDING COSTS OF ANY
9 APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-303 (2), OR
10 SKILLED WORKER TRAINING PROGRAM, AS DEFINED IN SECTION 8-83-303
11 (10), FOR DIRECTLY DISPLACED ELECTRIC GENERATING FACILITY
12 WORKERS;
13 (b) FINANCIAL ASSISTANCE FOR DIRECTLY DISPLACED ELECTRIC
14 GENERATING FACILITY WORKERS;
15 (c) FOR A PERIOD OF NO MORE THAN FIVE YEARS, COMPENSATION
16 TO LOCAL GOVERNMENTS FOR LOSSES OF PROPERTY TAX REVENUE
17 RESULTING DIRECTLY FROM THE RETIREMENT OF THE ELECTRIC
18 GENERATING FACILITY, WHICH COMPENSATION MAY BE REDUCED
19 ANNUALLY DURING THE PERIOD DURING WHICH IT IS PROVIDED;
20 (d) PAYMENT OF RETRAINING COSTS, INCLUDING COSTS OF ANY
21 APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-303 (2), OR
22 SKILLED WORKER TRAINING PROGRAM, AS DEFINED IN SECTION 8-83-303
23 (10), AND PROVISION OF FINANCIAL ASSISTANCE, INCLUDING WAGE
24 SUPPORT OR SUPPLEMENTAL RETIREMENT SUPPORT, FOR COLORADO
25 WORKERS AND ASSISTANCE TO LOCAL GOVERNMENTS WITH LOSSES OF TAX
26 REVENUE DIRECTLY RELATED TO PRODUCTION OF FUEL PREVIOUSLY USED
27 IN THE RETIRED FACILITIES; AND
28 (e) JOB RETRAINING AND EDUCATION FOR WORKERS WHO ARE
29 COLORADO RESIDENTS WHO WERE DIRECTLY INVOLVED IN THE TRANSPORT
30 OF FUEL TO A RETIRED COLORADO ELECTRIC GENERATING FACILITY AND
31 WHO ARE LAID OFF OR EXPERIENCE REDUCED WORK SCHEDULES
32 RESULTING FROM THE RETIREMENT OF THE ELECTRIC GENERATING
33 FACILITY.

34 **40-41-104. Financing orders - application requirements.**

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

37 (2) (a) AN INVESTOR-OWNED OR OTHER REGULATED ELECTRIC
38 UTILITY MAY FILE AN APPLICATION FOR APPROVAL TO ISSUE CO-EIA
39 BONDS IN ONE OR MORE SERIES, IMPOSE, CHARGE, AND COLLECT CO-EIA
40 CHARGES, AND CREATE CO-EIA PROPERTY RELATED TO THE RETIREMENT
41 OF AN ELECTRIC GENERATING FACILITY IN COLORADO THAT HAS

1 PREVIOUSLY BEEN APPROVED BY THE COMMISSION.

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

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

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

15 (a) AN ESTIMATED SCHEDULE FOR THE RETIREMENT;

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

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

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

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

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

33 **40-41-105. Issuance of financing orders.** (1) FOLLOWING
34 NOTICE AND HEARING ON AN APPLICATION FOR A FINANCING ORDER AS
35 REQUIRED BY THE COMMISSION'S RULES, PRACTICE, AND PROCEDURE, THE
36 COMMISSION MAY ISSUE A FINANCING ORDER IF THE COMMISSION FINDS
37 THAT:

38 (a) THE CO-EIA COSTS DESCRIBED IN THE APPLICATION RELATED
39 TO THE RETIREMENT OF THE ELECTRIC GENERATING FACILITIES ARE
40 REASONABLE;

41 (b) THE PROPOSED ISSUANCE OF CO-EIA BONDS AND THE

1 IMPOSITION AND COLLECTION OF CO-EIA CHARGES:
2 (I) ARE JUST AND REASONABLE;
3 (II) ARE CONSISTENT WITH THE PUBLIC INTEREST;
4 (III) CONSTITUTE A PRUDENT AND REASONABLE MECHANISM FOR
5 THE FINANCING OF THE CO-EIA COSTS DESCRIBED IN THE APPLICATION;
6 AND
7 (IV) WILL PROVIDE SUBSTANTIAL, TANGIBLE, AND QUANTIFIABLE
8 BENEFITS TO CUSTOMERS THAT ARE GREATER THAN THE BENEFITS THAT
9 WOULD HAVE BEEN ACHIEVED ABSENT THE ISSUANCE OF CO-EIA BONDS;
10 AND
11 (c) THE PROPOSED STRUCTURING, MARKETING, AND PRICING OF
12 THE CO-EIA BONDS WILL:
13 (I) SIGNIFICANTLY LOWER OVERALL COSTS TO CUSTOMERS OR
14 SIGNIFICANTLY MITIGATE RATE IMPACTS TO CUSTOMERS RELATIVE TO
15 TRADITIONAL METHODS OF FINANCING; AND
16 (II) ACHIEVE THE MAXIMUM NET PRESENT VALUE OF CUSTOMER
17 SAVINGS, AS DETERMINED BY THE COMMISSION IN A FINANCING ORDER,
18 CONSISTENT WITH MARKET CONDITIONS AT THE TIME OF SALE AND THE
19 TERMS OF THE FINANCING ORDER.
20 (2) THE FINANCING ORDER MUST:
21 (a) DETERMINE THE MAXIMUM AMOUNT OF CO-EIA COSTS THAT
22 MAY BE FINANCED FROM PROCEEDS OF CO-EIA BONDS AUTHORIZED TO BE
23 ISSUED BY THE FINANCING ORDER;
24 (b) NOTWITHSTANDING THE LIMITATION ON THE USE OF
25 RATEPAYER FUNDS SET FORTH IN SECTION 40-3-114, PROVIDE THAT AN
26 AMOUNT OF CO-EIA BOND PROCEEDS EQUAL TO FIFTEEN PERCENT OF THE
27 NET PRESENT VALUE OF ELECTRIC UTILITY CUSTOMER SAVINGS ESTIMATED
28 PURSUANT TO SECTION 40-41-104 (3)(e) BE TRANSFERRED TO THE
29 AUTHORITY BY THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER
30 APPLIES FOR USE BY THE AUTHORITY IN PROVIDING TRANSITION
31 ASSISTANCE AS REQUIRED BY SECTION 40-41-202 AND PAYING ITS
32 REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS
33 AUTHORIZED BY SECTION 40-41-201 (3)(f); EXCEPT THAT THE COMMISSION
34 MAY CONSIDER, AND IF DETERMINED AS PART OF AN EVIDENTIARY
35 PROCEEDING TO BE APPROPRIATE, APPROVE THE USE OF UP TO AN
36 ADDITIONAL TEN PERCENT OF THE NET PRESENT VALUE FOR SUCH USE BY
37 THE AUTHORITY IF THE COMMISSION FINDS THAT FIFTEEN PERCENT IS NOT
38 ADEQUATE TO MEET THE SCOPE OF LOCAL NEEDS;
39 (c) DESCRIBE THE PROPOSED CUSTOMER BILLING MECHANISM FOR
40 CO-EIA CHARGES AND INCLUDE A FINDING THAT THE MECHANISM IS JUST
41 AND REASONABLE;

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

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

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

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

23 (h) INCLUDE ANY ADDITIONAL FINDINGS OR CONCLUSIONS DEEMED
24 APPROPRIATE BY THE COMMISSION;

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

29 (j) SPECIFY THE TIMING OF ACTIONS REQUIRED BY THE ORDER SO
30 THAT:

31 (I) THE CO-EIA BONDS ARE ISSUED AS SOON AS FEASIBLE
32 FOLLOWING THE ISSUANCE OF THE FINANCING ORDER, INDEPENDENT OF
33 THE SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
34 GENERATING FACILITY;

35 (II) THE ENERGY ASSISTANCE FUNDS ARE TRANSFERRED TO THE
36 AUTHORITY AS SOON AS FEASIBLE, BUT NO LATER THAN THE EARLIER OF
37 THE DATE ON WHICH THE ELECTRIC GENERATING FACILITY CEASES
38 OPERATION; AND

39 (III) THE APPLICANT ELECTRIC UTILITY FILES TO REDUCE ITS RATES
40 AS REQUIRED IN SUBSECTION (4) OF THIS SECTION SIMULTANEOUSLY WITH
41 THE INCEPTION OF THE CO-EIA CHARGES AND INDEPENDENTLY OF THE

1 SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
2 GENERATING FACILITY; AND

3 (k) SPECIFY A FUTURE RATEMAKING PROCESS TO RECONCILE ANY
4 DIFFERENCE BETWEEN THE PROJECTED PRETAX COSTS INCLUDED IN THE
5 AMOUNT FINANCED BY CO-EIA BONDS AND THE FINAL ACTUAL PRETAX
6 COSTS INCURRED BY THE ELECTRIC UTILITY IN RETIRING THE ELECTRIC
7 GENERATING FACILITY. THE RECONCILIATION MAY AFFECT THE ELECTRIC
8 UTILITY'S BASE RATES OR ANY RIDER ADOPTED PURSUANT TO SUBSECTION
9 (4) OF THIS SECTION, BUT SHALL NOT AFFECT THE AMOUNT OF THE BONDS
10 OR THE ASSOCIATED CO-EIA 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-EIA PROPERTY PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION TO
14 BE CONDITIONED UPON, AND SIMULTANEOUS WITH, THE SALE OR OTHER
15 TRANSFER OF THE CO-EIA PROPERTY TO AN ASSIGNEE AND THE PLEDGE
16 OF THE CO-EIA PROPERTY TO SECURE CO-EIA BONDS.

17 (4) A FINANCING ORDER SHALL REQUIRE THE APPLICANT ELECTRIC
18 UTILITY, SIMULTANEOUSLY WITH THE INCEPTION OF THE COLLECTION OF
19 CO-EIA 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-EIA BONDS.

23 **40-41-106. Effect of financing order.** (1) A FINANCING ORDER
24 REMAINS IN EFFECT UNTIL THE CO-EIA BONDS ISSUED AS AUTHORIZED BY
25 THE FINANCING ORDER HAVE BEEN PAID IN FULL AND ALL FINANCING
26 COSTS RELATING TO THE CO-EIA BONDS HAVE BEEN PAID IN FULL.

27 (2) A FINANCING ORDER REMAINS IN EFFECT AND UNABATED
28 NOTWITHSTANDING THE BANKRUPTCY, REORGANIZATION, OR INSOLVENCY
29 OF THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES OR
30 ANY AFFILIATE OF THE ELECTRIC UTILITY OR SUCCESSOR ENTITY OR
31 ASSIGNEE.

32 (3) SUBJECT TO JUDICIAL REVIEW AS PROVIDED FOR IN SECTION
33 40-41-109, A FINANCING ORDER IS IRREVOCABLE. THEREFORE,
34 NOTWITHSTANDING SECTION 40-6-112 (1), THE COMMISSION MAY NOT
35 REDUCE, IMPAIR, POSTPONE, OR TERMINATE CO-EIA CHARGES APPROVED
36 IN A FINANCING ORDER OR IMPAIR CO-EIA PROPERTY OR THE COLLECTION
37 OR RECOVERY OF CO-EIA REVENUE.

38 (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, UPON ITS
39 OWN MOTION OR AT THE REQUEST OF AN ELECTRIC UTILITY OR ANY OTHER
40 PERSON, THE COMMISSION MAY COMMENCE A PROCEEDING AND ISSUE A
41 SUBSEQUENT FINANCING ORDER THAT PROVIDES FOR REFINANCING,

1 RETIRING, OR REFUNDING CO-EIA BONDS ISSUED PURSUANT TO THE
2 ORIGINAL FINANCING ORDER IF:

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

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

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

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

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

22 (c) CONSIDER THE CO-EIA COSTS OR FINANCING COSTS SPECIFIED
23 IN THE FINANCING ORDER TO BE THE REGULATED COSTS OR ASSETS OF THE
24 ELECTRIC UTILITY; OR

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

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

29 (a) AFFECTS THE AUTHORITY OF THE COMMISSION TO APPLY OR
30 MODIFY ANY BILLING MECHANISM DESIGNED TO RECOVER CO-EIA
31 CHARGES;

32 (b) PREVENTS OR PRECLUDES THE COMMISSION FROM
33 INVESTIGATING THE COMPLIANCE OF AN ELECTRIC UTILITY WITH THE
34 TERMS AND CONDITIONS OF A FINANCING ORDER AND REQUIRING
35 COMPLIANCE WITH THE FINANCING ORDER; OR

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

40 (3) THE COMMISSION MAY NOT REFUSE TO ALLOW THE RECOVERY
41 OF ANY COSTS ASSOCIATED WITH THE RETIREMENT OF ELECTRIC

1 GENERATING FACILITIES BY AN ELECTRIC UTILITY SOLELY BECAUSE THE
2 ELECTRIC UTILITY HAS ELECTED TO FINANCE THOSE ACTIVITIES THROUGH
3 A FINANCING MECHANISM OTHER THAN CO-EIA BONDS.

4 **40-41-108. Electric utility customer protection - legislative**
5 **declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
6 THAT:

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

12 (b) BECAUSE, SUBJECT TO JUDICIAL REVIEW AS PROVIDED FOR IN
13 SECTION 40-41-109, THE COMMISSION'S APPROVAL OF A FINANCING ORDER
14 IS IRREVOCABLE, TYPICALLY ADDRESSES VERY LARGE AMOUNTS OF
15 FINANCING UNDERTAKEN PURSUANT TO THIS ARTICLE 41, AND CAN ONLY
16 BE SUPERSEDED BY THE COMMISSION THROUGH THE ISSUANCE OF A
17 SUBSEQUENT FINANCING ORDER TO THE LIMITED EXTENT AND IN THE
18 LIMITED CIRCUMSTANCES SPECIFIED IN SECTIONS 40-41-106 (4) AND
19 40-41-114 (3), IN ADDITION TO ITS OTHER POWERS AND DUTIES, THE
20 COMMISSION HAS THE DUTY TO PERFORM AND AUTHORITY REQUIRED TO
21 PERFORM COMPREHENSIVE DUE DILIGENCE IN ITS EVALUATION OF AN
22 APPLICATION FOR A FINANCING ORDER AND HAS THE DUTY AND
23 AUTHORITY TO OVERSEE THE PROCESS USED TO STRUCTURE, MARKET, AND
24 PRICE CO-EIA BONDS.

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

26 (a) THE COMMISSION MAY ATTACH SUCH CONDITIONS TO THE
27 APPROVAL OF A FINANCING ORDER AS THE COMMISSION DEEMS
28 APPROPRIATE TO MAXIMIZE THE FINANCIAL BENEFITS OR MINIMIZE THE
29 FINANCIAL RISKS OF THE TRANSACTION TO CUSTOMERS AND TO DIRECTLY
30 IMPACTED COLORADO WORKERS AND COMMUNITIES;

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

34 (c) THE COMMISSION SHALL REVIEW AND DETERMINE THE
35 REASONABLENESS OF ALL PROPOSED UP-FRONT AND ONGOING FINANCING
36 COSTS; AND

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

41 (3) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ISSUANCE OF

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

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

29 (5) IF AN ELECTRIC UTILITY'S APPLICATION FOR A FINANCING
30 ORDER IS DENIED OR WITHDRAWN OR FOR ANY REASON NO CO-EIA BONDS
31 ARE ISSUED, ANY COSTS OF RETAINING EXPERT CONSULTANTS AND
32 COUNSEL ON BEHALF OF THE COMMISSION, AS AUTHORIZED BY
33 SUBSECTION (4) OF THIS SECTION, SHALL BE PAID BY THE APPLICANT
34 ELECTRIC UTILITY AND SHALL BE CONSIDERED BY THE COMMISSION AS A
35 PRUDENT DEFERRED EXPENSE FOR RECOVERY IN THE ELECTRIC UTILITY'S
36 FUTURE RATES.

37 **40-41-109. Judicial review of financing orders.** A FINANCING
38 ORDER IS A FINAL ORDER OF THE COMMISSION. NOTWITHSTANDING
39 SECTION 40-6-115 (5) SPECIFYING PROPER VENUE FOR PETITION FILINGS,
40 A PARTY AGGRIEVED BY THE ISSUANCE OF A FINANCING ORDER MAY
41 PETITION FOR SUSPENSION AND REVIEW OF THE FINANCING ORDER ONLY IN

1 THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER. IN THE CASE
2 OF ANY PETITION FOR SUSPENSION AND REVIEW, THE COURT SHALL
3 PROCEED TO HEAR AND DETERMINE THE ACTION AS EXPEDITIOUSLY AS
4 PRACTICABLE AND SHALL GIVE THE ACTION PRECEDENCE OVER OTHER
5 MATTERS NOT ACCORDED SIMILAR PRECEDENCE BY LAW.

6 **40-41-110. Electric utilities - duties.** (1) THE ELECTRIC BILLS OF
7 AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND
8 CAUSED CO-EIA BONDS TO BE ISSUED:

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

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

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

27 (2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER
28 AND CAUSED CO-EIA BONDS TO BE ISSUED MUST DEMONSTRATE IN AN
29 ANNUAL FILING WITH THE COMMISSION THAT CO-EIA REVENUES ARE
30 APPLIED SOLELY TO THE REPAYMENT OF CO-EIA BONDS AND OTHER
31 FINANCING COSTS.

32 **40-41-111. CO-EIA property.** (1) CO-EIA PROPERTY THAT IS
33 DESCRIBED IN A FINANCING ORDER CONSTITUTES AN EXISTING PRESENT
34 PROPERTY RIGHT OR INTEREST IN AN EXISTING PRESENT PROPERTY RIGHT
35 EVEN THOUGH THE IMPOSITION AND COLLECTION OF CO-EIA CHARGES
36 DEPENDS ON THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER IS
37 ISSUED PERFORMING ITS SERVICING FUNCTIONS RELATING TO THE
38 COLLECTION OF CO-EIA CHARGES AND ON FUTURE ELECTRICITY
39 CONSUMPTION. THE PROPERTY RIGHT OR INTEREST EXISTS REGARDLESS OF
40 WHETHER THE REVENUES OR PROCEEDS ARISING FROM THE CO-EIA
41 PROPERTY HAVE BEEN BILLED, HAVE ACCRUED, OR HAVE BEEN COLLECTED

1 AND NOTWITHSTANDING THE FACT THAT THE VALUE OR AMOUNT OF THE
2 PROPERTY RIGHT OR INTEREST IS DEPENDENT ON THE FUTURE PROVISION
3 OF SERVICE TO CUSTOMERS BY THE ELECTRIC UTILITY OR A SUCCESSOR OR
4 ASSIGNEE OF THE ELECTRIC UTILITY.

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

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

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

33 (5) THE INTEREST OF A TRANSFEREE, PURCHASER, ACQUIRER,
34 ASSIGNEE, OR PLEDGEE IN CO-EIA PROPERTY SPECIFIED IN A FINANCING
35 ORDER ISSUED TO AN ELECTRIC UTILITY, AND IN THE REVENUE AND
36 COLLECTIONS ARISING FROM THAT PROPERTY, IS NOT SUBJECT TO SETOFF,
37 COUNTERCLAIM, SURCHARGE, OR DEFENSE BY THE ELECTRIC UTILITY OR
38 ANY OTHER PERSON OR IN CONNECTION WITH THE REORGANIZATION,
39 BANKRUPTCY, OR OTHER INSOLVENCY OF THE ELECTRIC UTILITY OR ANY
40 OTHER ENTITY.

41 (6) A SUCCESSOR TO AN ELECTRIC UTILITY, WHETHER PURSUANT

1 TO ANY REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY
2 PROCEEDING OR WHETHER PURSUANT TO ANY MERGER OR ACQUISITION,
3 SALE, OTHER BUSINESS COMBINATION, OR TRANSFER BY OPERATION OF
4 LAW, AS A RESULT OF ELECTRIC UTILITY RESTRUCTURING OR OTHERWISE,
5 MUST PERFORM AND SATISFY ALL OBLIGATIONS OF, AND HAS THE SAME
6 DUTIES AND RIGHTS UNDER A FINANCING ORDER AS THE ELECTRIC UTILITY
7 TO WHICH THE FINANCING ORDER APPLIES AND SHALL PERFORM THE
8 DUTIES AND EXERCISE THE RIGHTS IN THE SAME MANNER AND TO THE
9 SAME EXTENT AS THE ELECTRIC UTILITY, INCLUDING COLLECTING AND
10 PAYING TO ANY PERSON ENTITLED TO RECEIVE THEM THE REVENUES,
11 COLLECTIONS, PAYMENTS, OR PROCEEDS OF CO-EIA PROPERTY DESCRIBED
12 IN THE FINANCING ORDER.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **40-41-115. Choice of law.** THE LAWS OF THE STATE GOVERN THE
38 VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY, AND
39 EXERCISE OF REMEDIES WITH RESPECT TO THE TRANSFER OF AN INTEREST
40 OR RIGHT OR CREATION OF A SECURITY INTEREST IN ANY CO-EIA
41 PROPERTY, CO-EIA CHARGE, OR FINANCING ORDER.

1 **40-41-116. Security interests in CO-EIA property.** (1) THE
2 CREATION, PERFECTION, AND ENFORCEMENT OF ANY SECURITY INTEREST
3 IN CO-EIA PROPERTY TO SECURE THE REPAYMENT OF THE PRINCIPAL OF
4 AND INTEREST ON CO-EIA BONDS, AMOUNTS PAYABLE UNDER ANY
5 ANCILLARY AGREEMENT, AND OTHER FINANCING COSTS ARE GOVERNED BY
6 THIS SECTION AND NOT BY THE "UNIFORM COMMERCIAL CODE", TITLE 4.
7 (2) THE DESCRIPTION OR INDICATION OF CO-EIA PROPERTY IN A
8 TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS
9 SUFFICIENT ONLY IF THE DESCRIPTION OR INDICATION REFERS TO THIS
10 ARTICLE 41 AND THE FINANCING ORDER CREATING THE CO-EIA
11 PROPERTY.
12 (3) (a) A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED,
13 VALID, AND BINDING AS SOON AS ALL OF THE FOLLOWING EVENTS HAVE
14 OCCURRED:
15 (I) THE FINANCING ORDER THAT DESCRIBES THE CO-EIA
16 PROPERTY IS ISSUED;
17 (II) A SECURITY AGREEMENT IS EXECUTED AND DELIVERED; AND
18 (III) VALUE IS RECEIVED FOR THE CO-EIA BONDS.
19 (b) ONCE A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED
20 UNDER SUBSECTION (3)(a) OF THIS SECTION, THE SECURITY INTEREST
21 ATTACHES WITHOUT ANY PHYSICAL DELIVERY OF COLLATERAL OR ANY
22 OTHER ACT. THE LIEN OF THE SECURITY INTEREST IS VALID, BINDING, AND
23 PERFECTED AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT,
24 CONTRACT OR OTHERWISE AGAINST THE PERSON GRANTING THE SECURITY
25 INTEREST, REGARDLESS OF WHETHER SUCH PARTIES HAVE NOTICE OF THE
26 LIEN, UPON THE FILING OF A FINANCING STATEMENT WITH THE SECRETARY
27 OF STATE. THE SECRETARY OF STATE SHALL MAINTAIN A FINANCING
28 STATEMENT FILED PURSUANT TO THIS SUBSECTION (3)(b) IN THE SAME
29 MANNER IN WHICH THE SECRETARY MAINTAINS AND IN THE SAME
30 RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
31 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
32 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
33 (3)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF
34 FINANCING STATEMENTS.
35 (4) A SECURITY INTEREST IN CO-EIA PROPERTY IS A
36 CONTINUOUSLY PERFECTED SECURITY INTEREST AND HAS PRIORITY OVER
37 ANY OTHER LIEN, CREATED BY OPERATION OF LAW OR OTHERWISE, WHICH
38 MAY SUBSEQUENTLY ATTACH TO THE CO-EIA PROPERTY UNLESS THE
39 HOLDER OF THE SECURITY INTEREST HAS AGREED IN WRITING OTHERWISE.
40 (5) THE PRIORITY OF A SECURITY INTEREST IN CO-EIA PROPERTY
41 IS NOT AFFECTED BY THE COMMINGLING OF CO-EIA PROPERTY OR

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

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

14 **40-41-117. Sales of CO-EIA property.** (1) (a) A SALE,
15 ASSIGNMENT, OR TRANSFER OF CO-EIA PROPERTY IS AN ABSOLUTE
16 TRANSFER AND TRUE SALE OF, AND NOT A PLEDGE OF OR SECURED
17 TRANSACTION RELATING TO, THE SELLER'S RIGHT, TITLE AND INTEREST IN,
18 TO, AND UNDER THE CO-EIA PROPERTY IF THE DOCUMENTS GOVERNING
19 THE TRANSACTION EXPRESSLY STATE THAT THE TRANSACTION IS A SALE
20 OR OTHER ABSOLUTE TRANSFER. A TRANSFER OF AN INTEREST IN CO-EIA
21 PROPERTY MAY BE CREATED ONLY WHEN ALL OF THE FOLLOWING HAVE
22 OCCURRED:

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

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

27 (III) VALUE IS RECEIVED.

28 (b) UPON THE FILING OF A FINANCING STATEMENT WITH THE
29 SECRETARY OF STATE, A TRANSFER OF AN INTEREST IN CO-EIA PROPERTY
30 IS PERFECTED AGAINST ALL THIRD PERSONS, INCLUDING ANY JUDICIAL LIEN
31 OR OTHER LIEN CREDITORS OR ANY CLAIMS OF THE SELLER OR CREDITORS
32 OF THE SELLER, OTHER THAN CREDITORS HOLDING A PRIOR SECURITY
33 INTEREST, OWNERSHIP INTEREST, OR ASSIGNMENT IN THE CO-EIA
34 PROPERTY PREVIOUSLY PERFECTED IN ACCORDANCE WITH THIS
35 SUBSECTION (1) OR SECTION 40-41-116. THE SECRETARY OF STATE SHALL
36 MAINTAIN A FINANCING STATEMENT FILED PURSUANT TO THIS SUBSECTION
37 (1)(b) IN THE SAME MANNER IN WHICH THE SECRETARY MAINTAINS AND IN
38 THE SAME RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
39 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
40 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
41 (1)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF

1 FINANCING STATEMENTS.

2 (2) THE CHARACTERIZATION OF A SALE, ASSIGNMENT, OR
3 TRANSFER AS AN ABSOLUTE TRANSFER AND TRUE SALE AND THE
4 CORRESPONDING CHARACTERIZATION OF THE PROPERTY INTEREST OF THE
5 ASSIGNEE IS NOT AFFECTED OR IMPAIRED BY THE EXISTENCE OR
6 OCCURRENCE OF ANY OF THE FOLLOWING:

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

8 (b) THE RETENTION BY THE SELLER OF:

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

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

15 (c) ANY RECOURSE THAT THE PURCHASER MAY HAVE AGAINST THE
16 SELLER;

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

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

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

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

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

27 **40-41-118. Use of CO-EIA bond proceeds by an electric utility**
28 **- definition.** (1) FOR PURPOSES OF THIS SECTION, "LEAST-COST
29 GENERATION RESOURCE" MEANS AN INCREMENTAL SUPPLY-SIDE OR
30 DEMAND-SIDE RESOURCE THAT, WHEN INCLUDED IN AN ELECTRIC UTILITY'S
31 GENERATION PORTFOLIO, PRODUCES THE LOWEST COST AMONG
32 ALTERNATIVE RESOURCES, CONSIDERING BOTH SHORT-TERM AND
33 LONG-TERM COSTS AND ASSESSING THE LIKELIHOOD OF CHANGES IN
34 FUTURE FUEL PRICES AND FUTURE ENVIRONMENTAL REQUIREMENTS,
35 AMONG OTHER CONSIDERATIONS.

36 (2) SUBJECT TO COMMISSION APPROVAL AS REQUIRED BY
37 SUBSECTION (3) OF THIS SECTION, AN ELECTRIC UTILITY THAT ISSUES CO-
38 EIA BONDS MAY EXPEND OR INVEST AN AMOUNT EQUAL TO THE AMOUNT
39 OF CO-EIA BOND PROCEEDS PLUS, AT ITS DISCRETION, OTHER FINANCIAL
40 RESOURCES, IN A MANNER THAT DEMONSTRABLY BENEFITS RATEPAYER
41 INTERESTS, AS FOLLOWS:

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

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

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

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

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

22 (a) USE ITS REGULAR PROCESS FOR CONSIDERATION OF
23 APPLICATIONS;

24 (b) FOR LEAST-COST GENERATION RESOURCES, DETERMINE THE
25 APPROPRIATE LEVELS OF ELECTRIC UTILITY RESOURCE OWNERSHIP, AS
26 PROVIDED FOR IN SUBSECTION (2)(b) OF THIS SECTION, WHICH LEVELS
27 MUST BE NO LESS THAN THE FULL VALUE OF THE ELECTRIC GENERATING
28 FACILITIES THAT WERE RETIRED AS AUTHORIZED BY THE FINANCING
29 ORDER, AND PURCHASED POWER, AS PROVIDED FOR IN SUBSECTION (2)(a)
30 OF THIS SECTION; AND

31 (c) FULLY CONSIDER THE PROVISIONS OF SECTION 40-2-123
32 CONCERNING NEW ENERGY TECHNOLOGIES AND FUTURE ENVIRONMENTAL
33 REGULATIONS.

34 (4) WHEN AN ELECTRIC UTILITY ACQUIRES LEAST-COST
35 GENERATION RESOURCES TO REPLACE ELECTRIC GENERATING FACILITIES
36 THAT WERE RETIRED AS AUTHORIZED BY A FINANCING ORDER, THE
37 ELECTRIC UTILITY MAY OWN AN EQUIVALENT AMOUNT OF REPLACEMENT
38 LEAST-COST GENERATION RESOURCES, AS MEASURED BY ENERGY OR
39 CAPACITY AND TO THE EXTENT NEEDED TO SERVE EXISTING LOAD, AS
40 FOLLOWS:

41 (a) UP TO AN ADDITIONAL FORTY PERCENT OF LEAST-COST

1 GENERATION RESOURCES IF THE LEAST-COST GENERATION RESOURCES ARE
2 ACQUIRED TO THE EXTENT NEEDED TO SERVE EXISTING LOAD THROUGH A
3 BUILD-OPERATE-TRANSFER AGREEMENT;
4 (b) ANY LARGER AMOUNT OF LEAST-COST GENERATION
5 RESOURCES THAT IS AUTHORIZED BY THE COMMISSION; AND
6 (c) AN INDEPENDENT EVALUATOR, SELECTED AND EMPLOYED BY
7 THE COMMISSION AND PAID BY THE ELECTRIC UTILITY, PERFORMS A
8 REVIEW, THE RESULTS OF WHICH THE INDEPENDENT EVALUATOR SHALL
9 REPORT TO THE COMMISSION TOGETHER WITH AN EVALUATION OF THE
10 SALE OF THE LEAST-COST GENERATION RESOURCES TO THE ELECTRIC
11 UTILITY.

12 PART 2

13 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY

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

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

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

29 (II) ONE DIRECTOR WHO HAS PROFESSIONAL EXPERIENCE IN RURAL
30 ECONOMIC DEVELOPMENT;

31 (III) ONE DIRECTOR WHO HAS ELECTRICAL TRADES LABOR
32 EXPERIENCE; AND

33 (IV) FOUR DIRECTORS APPOINTED WITHOUT OCCUPATIONAL
34 REQUIREMENTS, BUT THE GOVERNOR SHALL STRONGLY CONSIDER
35 APPOINTING A DIRECTOR WHO IS LICENSED TO PRACTICE LAW IN
36 COLORADO, A DIRECTOR WHO HAS PROFESSIONAL FINANCE EXPERIENCE,
37 AND AT LEAST ONE DIRECTOR WHO RESIDES IN AN AREA DIRECTLY
38 IMPACTED BY THE RETIREMENT OF ONE OR MORE ELECTRIC GENERATING
39 FACILITIES.

40 (b) THE GOVERNOR SHALL APPOINT THE INITIAL DIRECTORS OF THE
41 BOARD FOR TERMS BEGINNING SEPTEMBER 1, 2019. DIRECTORS SERVE FOR

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

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

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

23 (a) TO HAVE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS,
24 LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND POLITICAL
25 SUBDIVISION OF THE STATE;

26 (b) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION;

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

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

33 (e) TO FIX THE TIME AND PLACE OF BOARD MEETINGS, WHICH MUST
34 BE HELD AT LEAST FOUR TIMES PER YEAR AND, CONSISTENT WITH THE
35 OPEN MEETINGS LAW UNDER PART 4 OF ARTICLE 6 OF TITLE 24, THE
36 METHOD OF PROVIDING NOTICE OF BOARD MEETINGS. AT LEAST ONE
37 BOARD MEETING PER YEAR MUST BE HELD IN-PERSON, AND OTHER
38 MEETINGS MAY BE HELD USING AUDIO OR VIDEO TELECOMMUNICATIONS
39 TECHNOLOGY.

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

- 1 (g) To SUE AND BE SUED;
- 2 (h) To APPOINT, HIRE, RETAIN, AND TERMINATE OFFICERS AND
3 EMPLOYEES AND CONTRACT WITH AGENTS, ATTORNEYS, ACCOUNTANTS,
4 AUDITORS, FINANCIAL ADVISERS, INVESTMENT BANKERS, AND OTHER
5 PROFESSIONAL CONSULTANTS TO THE EXTENT NEEDED TO EXERCISE ITS
6 POWERS AND PERFORM ITS DUTIES UNDER THIS ARTICLE 41;
- 7 (i) To ENTER INTO CONTRACTS AND AGREEMENTS, INCLUDING
8 MEMORANDUMS OF UNDERSTANDING OR INTERGOVERNMENTAL
9 AGREEMENTS WITH ONE OR MORE AGENCIES OR POLITICAL SUBDIVISIONS
10 OF THE STATE OR ANOTHER STATE OR WITH THE FEDERAL GOVERNMENT,
11 NOT INCONSISTENT WITH THIS ARTICLE 41 OR ANY OTHER LAWS OF THE
12 STATE. THE AUTHORITY MAY ENTER INTO A CONTRACT OR AGREEMENT
13 WITH AN APPROPRIATE STATE AGENCY TO HELP THE AUTHORITY
14 ADMINISTER THE DISTRIBUTION OF ITS MONEY AS TRANSITION ASSISTANCE,
15 AND, IF IT DOES SO, THE MONEY ADMINISTERED REMAINS MONEY OF THE
16 AUTHORITY UNTIL IT IS DISTRIBUTED AND IS NOT MONEY OR REVENUE OF
17 THE STATE.
- 18 (j) To ACQUIRE SPACE, INCLUDING OFFICE SPACE, EQUIPMENT,
19 SERVICES, SUPPLIES, AND INSURANCE NECESSARY TO EXECUTE ITS
20 POWERS, DUTIES, AND MISSION UNDER THIS ARTICLE 41;
- 21 (k) To DEPOSIT ITS MONEY IN ANY BANKING INSTITUTION WITHIN
22 THE STATE OR IN ANY DEPOSITORY AUTHORIZED IN SECTION 24-75-603, TO
23 APPOINT, FOR THE PURPOSE OF MAKING SUCH DEPOSITS, ONE OR MORE
24 PERSONS, WHO SHALL GIVE SURETY BONDS IN SUCH AMOUNTS AND FORM
25 AND FOR SUCH PURPOSES AS THE BOARD REQUIRES, TO ACT AS
26 CUSTODIANS OF ITS MONEY, AND TO OTHERWISE DEPOSIT AND INVEST ITS
27 MONEY AS PERMITTED BY PART 6 OF ARTICLE 75 OF TITLE 24; AND
- 28 (l) To HAVE AND EXERCISE ANY OTHER POWERS NECESSARY OR
29 INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES
30 GRANTED IN THIS SECTION.

31 **40-41-202. Mitigation of impacts - specific powers and duties**
32 **of authority - local advisory committees.** (1) IN ORDER TO MITIGATE
33 THE DIRECT IMPACTS TO COLORADO WORKERS AND LOCAL COMMUNITIES
34 RESULTING FROM THE RETIREMENT OF ELECTRIC GENERATING FACILITIES,
35 THE AUTHORITY HAS THE FOLLOWING SPECIFIC POWERS AND DUTIES:

- 36 (a) TO DETERMINE THE DIRECT IMPACTS THAT THE RETIREMENT OF
37 AN ELECTRIC GENERATING FACILITY OWNED BY AN ELECTRIC UTILITY WILL
38 HAVE ON COLORADO WORKERS AND COMMUNITIES AND TO CONSULT WITH
39 THE DEPARTMENT OF LOCAL AFFAIRS, LOCAL GOVERNMENTS, ELECTRIC
40 UTILITIES, LABOR UNIONS, AND ANY OTHER PERSONS WHO POSSESS
41 RELEVANT INFORMATION IN MAKING ANY SUCH DETERMINATION;

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

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

18 (II) THE AUTHORITY SHALL DISBURSE AT LEAST THIRTY PERCENT
19 OF ALL TRANSITION ASSISTANCE DIRECTLY TO COLORADO WORKERS, AND
20 THE AUTHORITY SHALL NOT DISBURSE MONEY AS TRANSITION ASSISTANCE
21 TO THE DEPARTMENT OF LOCAL AFFAIRS OR A LOCAL GOVERNMENT OR
22 AGENCY OF LOCAL GOVERNMENT IF THE RECEIPT OF THE MONEY WOULD
23 TRIGGER OR INCREASE THE AMOUNT OF ANY REFUND OF EXCESS STATE OR
24 LOCAL GOVERNMENT REVENUE REQUIRED BY SECTION 20 OF ARTICLE X OF
25 THE STATE CONSTITUTION, BUT MAY COMPENSATE THE DEPARTMENT OR
26 A LOCAL GOVERNMENT OR AGENCY OF LOCAL GOVERNMENT FOR SERVICES
27 CONTRACTED FOR PURSUANT TO SECTION 40-41-201 (3)(i).

28 (2) WHEN DETERMINING HOW BEST TO ADDRESS THE DIRECT
29 IMPACTS TO A LOCAL COMMUNITY RESULTING FROM THE RETIREMENT OF
30 ELECTRIC GENERATING FACILITIES AND PROVIDE TRANSITION ASSISTANCE,
31 THE AUTHORITY SHALL TAKE INTO CONSIDERATION THE ADVICE OF A
32 LOCAL ADVISORY COMMITTEE, WHICH THE AUTHORITY SHALL ESTABLISH
33 IN CONJUNCTION WITH EACH BOARD OF COUNTY COMMISSIONERS,
34 MUNICIPAL GOVERNING BODY, AND SCHOOL DISTRICT THAT INCLUDES ALL
35 OR A PORTION OF THE IMPACTED COMMUNITY. A LOCAL ADVISORY
36 COMMITTEE:

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

40 (b) SHALL ADVISE THE AUTHORITY WITH RESPECT TO THE NATURE
41 AND SCOPE OF THE DIRECT IMPACTS TO THE COMMUNITY RESULTING FROM

1 THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY AND THE
2 DEVELOPMENT OF A TRANSITION ASSISTANCE PLAN FOR THE COMMUNITY;
3 AND

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

8 **40-41-203. Voluntary contributions to authority by utilities.**

9 (1) NOTWITHSTANDING THE LIMITATION ON THE USE OF RATEPAYER
10 FUNDS SET FORTH IN SECTION 40-3-114, UPON THE RETIREMENT OF AN
11 ELECTRIC GENERATING FACILITY, AN ELECTRIC UTILITY MAY, AT ITS SOLE
12 DISCRETION, TRANSFER TO THE AUTHORITY AN AMOUNT OF UP TO FIFTEEN
13 PERCENT OF THE NET PRESENT VALUE OF OPERATIONAL SAVINGS CREATED
14 BY THE RETIREMENT OF THE ELECTRIC GENERATING FACILITY, WHETHER
15 OR NOT THE ELECTRIC UTILITY HAS OBTAINED A FINANCING ORDER AND
16 ISSUED CO-EIA BONDS IN CONNECTION WITH THE RETIREMENT OF THE
17 ELECTRIC GENERATING FACILITY. A DECISION BY A COLORADO ELECTRIC
18 UTILITY TO TRANSFER A PERCENTAGE OF THE NET PRESENT VALUE OF
19 OPERATING SAVINGS TO THE AUTHORITY SHALL BE DEEMED BY THE
20 COMMISSION TO BE A PRUDENT ACTION BY THE UTILITY.

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

28 **40-41-204. Reporting to general assembly.** NOTWITHSTANDING
29 SECTION 24-1-136 (11), FOR ANY FISCAL YEAR IN WHICH THE AUTHORITY
30 HAS PROVIDED TRANSITION ASSISTANCE, THE AUTHORITY, NO LATER THAN
31 FEBRUARY 15 OF THE FOLLOWING FISCAL YEAR, SHALL SUBMIT TO THE
32 JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE FINANCE
33 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, THE
34 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
35 REPRESENTATIVES, AND THE TRANSPORTATION AND ENERGY COMMITTEE
36 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT THAT SETS
37 FORTH A COMPLETE AND DETAILED FINANCIAL AND OPERATING
38 STATEMENT OF THE AUTHORITY DURING THE FISCAL YEAR.

39 **40-41-205. Authority subject to open meetings and open**
40 **records laws.** THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
41 PROVISIONS OF PART 4 OF ARTICLE 6 OF TITLE 24 AND THE "COLORADO

1 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.
2 **SECTION 2.** In Colorado Revised Statutes, 24-77-102, **amend**
3 the introductory portion; and **add** (15)(b)(XIX) as follows:
4 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
5 the context otherwise requires:
6 (15)(b) "Special purpose authority" includes, but is not limited to:
7 (XIX) THE COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY
8 CREATED PURSUANT TO SECTION 40-41-201 (1).
9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor."

** ** ** ** **