



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**HB 18-1345**

**FISCAL NOTE**

---

<b>Drafting Number:</b>	LLS 18-0932	<b>Date:</b>	April 11, 2018
<b>Prime Sponsors:</b>	Rep. Arndt; Hansen Sen. Coram; Moreno	<b>Bill Status:</b>	House Transportation
		<b>Fiscal Analyst:</b>	Erin Reynolds   303-866-4146 Erin.Reynolds@state.co.us

---

**Bill Topic:** ELECTRIC TRANSMISSION LINES RIGHT OF FIRST REFUSAL

---

**Summary of Fiscal Impact:** **No fiscal impact.** This bill provides incumbent electric utilities with a right of first refusal related to electric transmission facilities approved through the regional transportation planning process established by the Federal Energy Regulatory Commission.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

---

### Summary of Legislation

The Federal Energy Regulatory Commission (FERC) requires each public utility transmission provider to participate in a regional transmission planning process to produce a regional transmission plan. If construction of an electric transmission line in Colorado has been approved in a regional transmission plan or by another applicable federal regional transmission planning requirement, the bill affords an incumbent electric utility owning the existing transmission facilities to which the line will connect up to 180 days after the line has been approved to give written notice to the Public Utilities Commission (PUC) that the incumbent electric utility intends to construct, own, and maintain the line (i.e. right of first refusal). If the incumbent electric utility does not provide notice to the PUC, the incumbent electric utility surrenders its right of first refusal. Utilities subject to PUC regulation must also file an application with the PUC for a Certificate of Public Convenience and Necessity to construct the line within 24 months after filing this notice.

### Background

In 2011, the Federal Energy Regulatory Commission modified its rules related to transmission planning through Order Number 1000 establishing new requirements for transmission planning, including requirements that:

- each public utility transmission provider participate in a regional transmission planning process and produce a regional transmission plan;
- local and regional transmission planning processes consider transmission needs driven by public policy requirements established by state or federal laws or regulations, and establish procedures to identify transmission needs driven by public policy requirements and evaluate proposed solutions to those transmission needs; and

- public utility transmission providers in each pair of neighboring transmission planning regions coordinate to determine if there are more efficient or cost-effective solutions to their mutual transmission needs.

This order eliminated an incumbent utility's right of first refusal to construct, own, and maintain new transmission lines required as a result of regional planning processes. Instead, under the new FERC regulations, new transmission facilities must be acquired through a process that demonstrates comparability with other alternatives, which is typically accomplished through a competitive solicitation. However, this FERC regulation does not override state laws or regulations.

### **Assessment of No Fiscal Impact**

The bill preempts federal law by eliminating the standard FERC competitive process for acquisition of transmission in Colorado and creates a right of first refusal for incumbent utilities in state law. While it requires the PUC to accept notices related to a utility's right, this fits into existing processes already established at PUC in the Department of Regulatory Agencies. For this reason, this bill is assessed as having no fiscal impact.

### **Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

### **State and Local Government Contacts**

Law

Municipalities

Regulatory Agencies