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SENATE BILL 23-291

BY SENATOR(S) Fenberg and Cutter, Buckner, Exum, Hansen, Jaquez Lewis, Marchman, Moreno, Priola, Winter F.;
also REPRESENTATIVE(S) deGruy Kennedy and Martinez, Amabile, Bacon, Bird, Boesenecker, Brown, Dickson, Duran, Froelich, Garcia, Gonzales-Gutierrez, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Mabrey, McCormick, Parenti, Ricks, Sirota, Snyder, Story, Titone, Valdez, Velasco, Vigil, Willford, McCluskie.

CONCERNING THE PUBLIC UTILITIES COMMISSION'S REGULATION OF ENERGY UTILITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 40-2-139 as follows:

40-2-139. Investor-owned utility electric resource planning - maximum discount rate authorized. IF THE COMMISSION RELIES ON THE USE OF A DISCOUNT RATE WHEN CALCULATING NET PRESENT VALUE OF FUTURE CARBON-BASED FUEL COSTS IN AN ELECTRIC RESOURCE PLAN, THE DISCOUNT RATE MUST NOT EXCEED THE LONG-TERM RATE OF INFLATION, AS

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

DETERMINED BY THE COMMISSION. IN DETERMINING THE LONG-TERM RATE OF INFLATION, THE COMMISSION SHALL DETERMINE AN APPROPRIATE RATE OF INFLATION SPECIFICALLY FOR FUEL COSTS.

SECTION 2. In Colorado Revised Statutes, **add** 40-3-102.5 as follows:

40-3-102.5. Limiting rate case expenses for investor-owned utilities - information included in rate case filings - gas cost or electric commodity adjustment filings - rules - definitions. (1) **Limiting recovery of rate case expenses.** (a) THE COMMISSION SHALL ESTABLISH RULES TO LIMIT THE AMOUNT OF RATE CASE EXPENSES THAT A UTILITY MAY RECOVER FROM RATEPAYERS. IN ESTABLISHING THE RULES, THE COMMISSION MAY CONSIDER:

(I) IMPLEMENTING A SYMMETRICAL INCENTIVE TO MOTIVATE THE UTILITY TO LIMIT EXPENSES;

(II) LIMITING THE AMOUNT OF EXPENSES FOR OUTSIDE EXPERTS, CONSULTANTS, AND LEGAL RESOURCES THAT ARE RECOVERABLE;

(III) SETTING AN OVERALL PERCENTAGE OF THE UTILITY'S EXPENSES IN A RATE CASE THAT ARE NOT RECOVERABLE;

(IV) ESTABLISHING DISCOVERY PARAMETERS AND WHAT INFORMATION IN A COMMISSION PROCEEDING MUST BE DISCLOSED TO INTERVENERS OR TO THE COMMISSION TO REDUCE TIME AND COSTS ASSOCIATED WITH A LENGTHY DISCOVERY PROCESS, WHICH INFORMATION MAY INCLUDE:

(A) A SOURCE MODEL SHOWING ALL RATE ADJUSTMENTS;

(B) EXECUTABLE SPREADSHEETS, ALSO REFERRED TO AS WORKPAPERS, WITH LINKS AND FORMULAS INTACT;

(C) A TEST YEAR BASED ON A RECENTLY COMPLETED TWELVE-MONTH PERIOD AND FOR WHICH ACTUAL COSTS AND INVESTMENTS ARE ANALYZED; AND

(D) ANY OTHER INFORMATION OR DOCUMENTATION, AS DETERMINED

BY THE COMMISSION; OR

(V) REQUIRING A TECHNICAL CONFERENCE WITH INTERVENING PARTIES TO ADDRESS INTERVENING PARTIES' QUESTIONS AND TO PROVIDE THE ABILITY FOR INTERVENERS TO ANALYZE THE UTILITY'S ASSUMPTIONS AND CALCULATIONS SUPPORTING A RATE CASE FILING.

(b) BEFORE THE COMMISSION MAY DETERMINE THAT AN INVESTOR-OWNED UTILITY'S APPLICATION TO MODIFY BASE RATES IS COMPLETE, THE COMMISSION SHALL CERTIFY THAT, FOR COMPARISON OF TEST YEARS AND OTHER PURPOSES, THE FILING INCLUDES SUFFICIENT INFORMATION, INCLUDING A COMPREHENSIVE COST AND REVENUE REQUIREMENT ANALYSIS BASED ON ACTUAL, AUDITABLE, HISTORICAL DATA, WHICH ANALYSIS MUST BE ACCOMPANIED BY APPROPRIATE WORKPAPERS AND OTHER SUPPORTING MATERIALS.

(c) NOTHING IN THIS SECTION PROHIBITS A UTILITY FROM INCLUDING MULTIPLE TEST YEARS FOR ANALYSIS OR CONSIDERATION IN A RATE CASE FILING, INCLUDING INCLUSION OF A FUTURE TEST YEAR.

(d) AS USED IN THIS SUBSECTION (1):

(I) "BASE RATE" MEANS CHARGES USED TO RECOVER COSTS OF UTILITY INFRASTRUCTURE AND OPERATIONS, INCLUDING A RETURN ON CAPITAL INVESTMENT, NOT OTHERWISE RECOVERED THROUGH A UTILITY RATE RIDER OR RATE ADJUSTMENT MECHANISM.

(II) "TEST YEAR" MEANS A TWELVE-MONTH PERIOD THAT IS EXAMINED TO DETERMINE A UTILITY'S COSTS OF SERVICE IN A RATE CASE.

(III) "UTILITY" MEANS AN INVESTOR-OWNED ELECTRIC OR GAS UTILITY.

(2) Requirements for filings to increase a rate, charge, fee, fare, toll, rental, or classification. (a) AT THE TIME OF FILING A REQUEST TO INCREASE ANY RATE, CHARGE, FEE, FARE, TOLL, RENTAL, OR CLASSIFICATION, THE UTILITY SHALL PROVIDE THE COMMISSION A RATE TREND REPORT FOR THE PREVIOUS TEN YEARS REGARDING ANY HISTORICAL INCREASES OR DECREASES OF THE RATE, CHARGE, FEE, FARE, TOLL, RENTAL, OR CLASSIFICATION, INCLUDING:

(I) THE AMOUNT OF EACH APPROVED INCREASE OR DECREASE;

(II) THE INCREMENTAL INCREASE OR DECREASE FROM THE MOST RECENT APPROVED CHANGE;

(III) THE DATES THAT EACH APPROVED INCREASE OR DECREASE WENT INTO EFFECT;

(IV) THE PROCEEDING NUMBER RELATED TO EACH APPROVED INCREASE OR DECREASE;

(V) A CHART, GRAPH, OR OTHER VISUALIZATION DEMONSTRATING THE TEN-YEAR HISTORICAL TREND REGARDING EACH RATE, CHARGE, FEE, FARE, TOLL, RENTAL, OR CLASSIFICATION, INCLUDING ALL UTILITY BILL LINE ITEMS SUCH AS RATES AND RATE RIDERS; AND

(VI) FOR EACH OF THE TEN YEARS, THE ANNUAL TOTAL AMOUNT OF THE RATE, CHARGE, FEE, FARE, TOLL, RENTAL, OR CLASSIFICATION.

(b) EACH UTILITY SHALL POST AND KEEP CURRENT ON ITS WEBSITE THE RATE TREND REPORT DATA, INCLUDING THE CHART, GRAPH, OR OTHER VISUALIZATION DEMONSTRATING THE TEN-YEAR HISTORICAL TREND SUBMITTED AS PART OF THE RATE TREND REPORT. ANY VISUALIZATION MUST INCLUDE ALL UTILITY BILL LINE ITEMS, INCLUDING ALL RATES AND RATE RIDERS.

(3) Gas cost or electric commodity adjustment filing requirements. A UTILITY THAT FILES A GAS COST ADJUSTMENT FILING OR AN ELECTRIC COMMODITY ADJUSTMENT FILING SHALL PROVIDE COPIES OF ALL CONFIDENTIAL MATERIALS AND ALL EXECUTABLE MATERIALS RELATED TO THE FILING TO THE COMMISSION'S STAFF AND THE OFFICE OF THE UTILITY CONSUMER ADVOCATE CREATED IN SECTION 40-6.5-102 (1).

SECTION 3. In Colorado Revised Statutes, **amend** 40-3-114 as follows:

40-3-114. Cost recovery - prohibitions - reporting - penalties - definitions. (1) The commission shall ensure that regulated electric and gas utilities do not use ratepayer funds to subsidize nonregulated activities.

(2) A UTILITY SHALL NOT RECOVER THE FOLLOWING COSTS FROM ITS CUSTOMERS, WHETHER AS PART OF PROPOSED BASE RATE COSTS, A RIDER, OR OTHER CHARGES:

(a) MORE THAN FIFTY PERCENT OF ANNUAL TOTAL COMPENSATION OR OF EXPENSE REIMBURSEMENT FOR MEMBERS OF THE BOARD OF DIRECTORS OF THE UTILITY;

(b) TAX PENALTIES OR FINES ISSUED AGAINST THE UTILITY;

(c) INVESTOR-RELATION EXPENSES;

(d) ADVERTISING AND PUBLIC RELATIONS EXPENSES THAT DO NOT DIRECTLY RELATE TO A PURPOSE OR PROGRAM THAT IS REQUIRED OR AUTHORIZED UNDER STATUTE OR COMMISSION RULE OR ORDER. ADVERTISING AND PUBLIC RELATIONS EXPENSES FOR WHICH COST RECOVERY IS PROHIBITED INCLUDE:

(I) COMMUNICATIONS TO PROMOTE OR IMPROVE THE UTILITY'S BRAND;

(II) EXPENSES FOR THE PURPOSE OF INFLUENCING PUBLIC OPINION ABOUT THE UTILITY; AND

(III) EXPENSES INTENDED TO CREATE GOOD WILL TOWARD THE UTILITY FROM THE GENERAL PUBLIC.

(e) EXPENSES FOR LOBBYING OR OTHER ACTIVITIES MEANT TO INFLUENCE THE OUTCOME OF ANY LOCAL, STATE, OR FEDERAL LEGISLATION, ORDINANCE, RESOLUTION, OR BALLOT MEASURE;

(f) CHARITABLE GIVING EXPENSES, INCLUDING CONTRIBUTIONS TO ORGANIZATIONS QUALIFIED UNDER SECTION 501 (c)(3) OR 501 (c)(4) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501, AS AMENDED;

(g) ORGANIZATIONAL OR MEMBERSHIP DUES, OR OTHER CONTRIBUTIONS, TO ANY ORGANIZATION, ASSOCIATION, INSTITUTION, CORPORATION, OR OTHER ENTITY THAT ENGAGES IN LOBBYING OR OTHER SIMILAR ACTIVITIES INTENDED TO INFLUENCE THE OUTCOME OF ANY LOCAL,

STATE, OR FEDERAL LEGISLATION, ORDINANCE, RESOLUTION, RULE, BALLOT MEASURE, OR OTHER REGULATORY DECISION;

(h) CONTRIBUTIONS TO POLITICAL CANDIDATES, CAMPAIGN COMMITTEES, ISSUE COMMITTEES, OR INDEPENDENT EXPENDITURE COMMITTEES OR SIMILAR POLITICAL EXPENSES;

(i) TRAVEL, LODGING, FOOD, AND BEVERAGE EXPENSES FOR THE UTILITY'S BOARD OF DIRECTORS AND OFFICERS;

(j) ENTERTAINMENT OR GIFT EXPENSES;

(k) EXPENSES RELATED TO ANY OWNED, LEASED, OR CHARTERED AIRCRAFT FOR THE UTILITY'S BOARD OF DIRECTORS AND OFFICERS; OR

(l) EXPENSES RELATED TO MARKETING AND ADMINISTRATION OR CUSTOMER SERVICE FOR UNREGULATED PRODUCTS OR SERVICES PROVIDED OR SOLD BY THE UTILITY OR THE UTILITY'S AFFILIATES.

(3) SUBSECTIONS (2)(g) AND (2)(h) OF THIS SECTION SHALL NOT BE CONSTRUED TO APPLY TO A UTILITY EMPLOYEE'S OR CONTRACT WORKER'S ACTIVITIES RESULTING FROM ANY VOLUNTARY DUES DEDUCTIONS THAT ARE PROCESSED THROUGH STANDARD PAYROLL PROCESSES.

(4) (a) NOTWITHSTANDING PENALTIES SET FORTH IN ARTICLE 7 OF THIS TITLE 40, IF THE COMMISSION DETERMINES THAT A UTILITY IMPROPERLY RECOVERED COSTS PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COMMISSION MAY ASSESS A NONRECOVERABLE PENALTY AGAINST THE UTILITY.

(b) IN ADDITION TO ASSESSING A NONRECOVERABLE PENALTY AGAINST A UTILITY PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE COMMISSION SHALL ORDER THE UTILITY TO REFUND THE AMOUNT IMPROPERLY RECOVERED PURSUANT TO SUBSECTION (2) OF THIS SECTION, PLUS INTEREST, TO CUSTOMERS.

(5) THE COMMISSION SHALL REQUIRE A UTILITY TO FILE AN ANNUAL REPORT WITH THE COMMISSION TO ENSURE THE UTILITY'S COMPLIANCE WITH THIS SECTION. THE REPORT MUST INCLUDE THE PURPOSE, PAYEE, AND AMOUNT OF ANY EXPENSES ASSOCIATED WITH THE COSTS AND ACTIVITIES

THAT ARE NOT PERMITTED TO BE RECOVERED FROM CUSTOMERS PURSUANT TO THIS SECTION.

(6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) (I) "ADVERTISING" MEANS THE ACT OF PUBLISHING, DISSEMINATING, SOLICITING, OR CIRCULATING WRITTEN, ONLINE, VIDEO, OR AUDIO COMMUNICATION INTENDED TO INDUCE A PERSON TO PATRONIZE A PRODUCT, SERVICE, BUSINESS, OR INDUSTRY; PROMOTE A BUSINESS'S BRAND; OTHERWISE EMPHASIZE DESIRABLE QUALITIES ABOUT A PRODUCT, SERVICE, BUSINESS, OR INDUSTRY; OR INFLUENCE PUBLIC OPINION WITH RESPECT TO LEGISLATIVE, ADMINISTRATIVE, OR ELECTORAL MATTERS.

(II) "ADVERTISING" DOES NOT INCLUDE:

(A) ADVERTISING REQUIRED OR AUTHORIZED BY LAW, REGULATION, OR ORDER;

(B) ADVERTISING DIRECTLY RELATED TO A PURPOSE OR PROGRAM REGARDING INCOME-BASED SERVICE, SPECIAL RATES, PILOT PROGRAMS, ENERGY CONSERVATION, ENERGY EFFICIENCY, BENEFICIAL ELECTRIFICATION, RENEWABLE ENERGY, TRANSPORTATION ELECTRIFICATION, OR OTHER CONSUMER EDUCATION INFORMATION;

(C) ADVERTISING REGARDING SERVICE INTERRUPTIONS, SAFETY MEASURES, OR EMERGENCY CONDITIONS; OR

(D) ADVERTISING CONCERNING EMPLOYMENT OPPORTUNITIES WITH THE UTILITY.

(b) "AIRCRAFT" HAS THE MEANING SET FORTH IN SECTION 41-2-101 (1).

(c) "BASE RATE" HAS THE MEANING SET FORTH IN SECTION 40-3-102.5 (1)(d)(I).

(d) "ELECTRIC UTILITY" MEANS AN INVESTOR-OWNED ELECTRIC UTILITY IN THE STATE.

(e) "EXPENSES" MEANS ANY PAYMENT MADE IN THE FORM OF COMPENSATION THAT A UTILITY PAYS TO AN EXTERNAL FIRM, A CORPORATE AFFILIATE, OR AN EMPLOYEE OF THE UTILITY.

(f) "GAS UTILITY" MEANS AN INVESTOR-OWNED GAS UTILITY IN THE STATE.

(g) "LOBBYING" MEANS DIRECTLY, OR THROUGH THE SOLICITATION OF OTHERS, COMMUNICATING WITH A PERSON THAT IS IN A POSITION TO MAKE A POLICY DECISION IN ORDER TO INFLUENCE THE OUTCOME OF LOCAL, STATE, OR FEDERAL LEGISLATION.

(h) "RATE CASE" MEANS A FORMAL HEARING OF THE COMMISSION TO DETERMINE IF THE BASE RATES OF AN ELECTRIC UTILITY OR GAS UTILITY ARE JUST AND REASONABLE PURSUANT TO SECTION 40-3-101.

(i) "RIDER" MEANS A CHARGE ADDED TO A UTILITY BILL TO RECOVER A SPECIFIC COST THAT IS NOT PART OF THE BASE RATE.

(j) "UTILITY" MEANS AN INVESTOR-OWNED ELECTRIC UTILITY OR GAS UTILITY IN THE STATE.

SECTION 4. In Colorado Revised Statutes, **add** 40-3-120 and 40-3-121 as follows:

40-3-120. Fuel cost sharing - gas utilities- electric utilities - rules.

(1) (a) ON OR BEFORE NOVEMBER 1, 2023, AN INVESTOR-OWNED GAS UTILITY SHALL FILE WITH THE COMMISSION A GAS PRICE RISK MANAGEMENT PLAN THAT INCLUDES PROPOSALS FOR LEVELING OR REDUCING THE VOLATILITY OF FUEL COSTS THAT ARE RECOVERED PURSUANT TO THE UTILITY'S GAS COST ADJUSTMENT FILINGS. SUCH PLAN MUST INCLUDE A MAXIMUM PER-MONTH FUEL COST THAT ACCOUNTS FOR PRICE FLUCTUATIONS BASED ON SEASONALITY AND CAN BE AUTOMATICALLY RECOVERED THROUGH THE GAS COST ADJUSTMENT MECHANISM. THE PLAN MAY INCLUDE OTHER ELEMENTS SUCH AS PHYSICAL HEDGING, FINANCIAL HEDGING, FUEL STORAGE, OR LONG-TERM CONTRACTING.

(b) THE COMMISSION SHALL ALLOW ANY PRUDENTLY INCURRED COSTS ABOVE THE MAXIMUM MONTHLY FUEL COST INCLUDED IN AN INVESTOR-OWNED GAS UTILITY'S PLAN PURSUANT TO SUBSECTION (1)(a) OF

THIS SECTION TO BE RECORDED IN A DEFERRED BALANCE THAT IS RECOVERABLE AND AMORTIZED OVER AN APPROPRIATE TIMELINE OF NO MORE THAN FIVE YEARS WITH FINANCING COSTS, AS DETERMINED BY THE COMMISSION.

(c) THE COMMISSION SHALL APPROVE, AMEND, OR DENY A PLAN SUBMITTED PURSUANT TO THIS SUBSECTION (1) BASED ON A DETERMINATION OF THE BEST INTERESTS OF A UTILITY'S RATEPAYERS, IN SO FAR AS THE COMMISSION FINDS THAT THE PLAN IS IN THE PUBLIC INTEREST.

(2) (a) ON OR BEFORE JANUARY 1, 2025, THE COMMISSION SHALL ADOPT RULES TO ESTABLISH MECHANISMS TO ALIGN THE FINANCIAL INCENTIVES OF AN INVESTOR-OWNED ELECTRIC OR GAS UTILITY WITH THE INTERESTS OF THE UTILITY'S CUSTOMERS REGARDING INCURRED FUEL COSTS.

(b) THE MECHANISMS ESTABLISHED BY RULE PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION MUST BE DESIGNED TO PROTECT CUSTOMERS AND TO IMPROVE THE UTILITY'S MANAGEMENT OF FUEL COSTS. THE COMMISSION SHALL TAILOR THE MECHANISMS TO APPLY TO DIFFERENT UTILITIES BASED ON A UTILITY'S SIZE OR ABILITY TO IMPLEMENT THE MECHANISMS.

(c) THE COMMISSION MAY ESTABLISH A SYMMETRICAL INCENTIVE FOR THE UTILITY TO SUCCESSFULLY IMPLEMENT THE MECHANISMS.

(3) IN ADOPTING THE RULES PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE COMMISSION:

(a) SHALL CONSIDER:

(I) SYMMETRICALLY ALLOCATING AN AMOUNT OF FUEL PRICE RISK TO THE INVESTOR-OWNED ELECTRIC OR GAS UTILITY, SUBJECT TO REASONABLE PARAMETERS, INCLUDING:

(A) A RANGE OF OUTCOMES WITHIN WHICH NO RISK SHARING OCCURS; AND

(B) A CAP ON ANY INCENTIVE OR COST SHARE THAT RESULTS FROM THE RISK-MITIGATION MECHANISM; AND

(II) MECHANISMS TO IMPROVE ELECTRICITY PRODUCTION COST EFFICIENCY WHILE MINIMIZING FUEL COSTS, SUCH AS SYMMETRICALLY ALLOCATING A PORTION OF IMPROVEMENTS OR DEGRADATIONS IN ELECTRICITY PRODUCTION PER DOLLAR OF FUEL OR PER DOLLAR OF ACQUISITION COSTS INCURRED; AND

(b) SHALL CONSIDER, TO THE EXTENT SUCH INFORMATION IS RELEVANT:

(I) THE FINANCIAL HEALTH OF THE UTILITY AND CORRESPONDING IMPACTS ON CUSTOMER AFFORDABILITY; AND

(II) THE UTILITY'S ABILITY TO MAKE INVESTMENTS TO ACHIEVE THE STATE'S ENERGY POLICY OBJECTIVES IN AN AFFORDABLE MANNER FOR CUSTOMERS.

(4) NOTHING IN THIS SECTION:

(a) SHALL BE CONSTRUED TO AUTOMATICALLY SHIFT RISK TO THE INVESTOR-OWNED ELECTRIC OR GAS UTILITY; OR

(b) WARRANTS AN AUTOMATIC ADJUSTMENT TO THE AMOUNT OF ALLOWABLE RETURN ON EQUITY OR ANY OTHER RATE-MAKING METRIC.

40-3-121. Natural gas cost causation study - commission proceeding - reporting - repeal. (1) (a) WITHIN SIXTY DAYS AFTER THE COMMISSION ISSUES A FINAL, NONAPPEALABLE DECISION REGARDING THE FIRST CLEAN HEAT PLAN FILED PURSUANT TO SECTION 40-3.2-108 BY A NATURAL GAS UTILITY THAT SERVES MORE THAN FIVE HUNDRED THOUSAND CUSTOMERS, THE COMMISSION SHALL OPEN A PROCEEDING TO INVESTIGATE WHETHER AND HOW RESIDENTIAL DEVELOPMENT AND OTHER DEVELOPMENT IN CERTAIN GEOGRAPHIC AREAS DRIVE NATURAL GAS INFRASTRUCTURE COSTS FOR ANY NATURAL GAS UTILITY THAT SERVES MORE THAN FIVE HUNDRED THOUSAND CUSTOMERS IN THE STATE, PARTICULARLY WITH REGARD TO THE IMPACT THAT THE DEVELOPMENT HAS ON NONPARTICIPATING INCOME-QUALIFIED CUSTOMERS.

(b) THE PROCEEDING MUST IDENTIFY SPECIFIC, NEW LARGE NATURAL GAS INFRASTRUCTURE INVESTMENTS AND, FOR EACH INVESTMENT IDENTIFIED, DETERMINE THE EXTENT TO WHICH NEW RESIDENTIAL

DEVELOPMENT OR OTHER DEVELOPMENT BY A GEOGRAPHIC AREA IS DISPROPORTIONATELY NECESSITATING THAT INVESTMENT.

(c) THE PROCEEDING MUST INCLUDE A CALCULATION OF THE BENEFITS AND COSTS OF THE GROWTH IN NEW RESIDENTIAL DEVELOPMENT AND OTHER DEVELOPMENT TO BOTH THE NATURAL GAS UTILITY CUSTOMERS FOR WHOM THE INFRASTRUCTURE INVESTMENT IS BEING MADE AND NONPARTICIPATING RETAIL AND WHOLESALE NATURAL GAS UTILITY CUSTOMERS, PARTICULARLY THOSE NONPARTICIPATING CUSTOMERS WHO ARE INCOME-QUALIFIED CUSTOMERS.

(2) AFTER COMPLETION OF THE INVESTIGATION, THE COMMISSION SHALL HOLD A HEARING IN THE INVESTIGATORY PROCEEDING, AT WHICH THE COMMISSION SHALL CONSIDER THE INFORMATION GATHERED IN THE INVESTIGATION AND PUBLIC COMMENTS WITH RESPECT TO A NATURAL GAS UTILITY THAT SERVES MORE THAN FIVE HUNDRED THOUSAND CUSTOMERS IN THE STATE, TO:

(a) DETERMINE WHETHER ALTERNATIVE INFRASTRUCTURE, SERVICE INVESTMENTS, OR OTHER UTILITY ACTIONS COULD MITIGATE IMPACTS ON NONPARTICIPATING OR INCOME-QUALIFIED CUSTOMERS IN A MANNER THAT IS NECESSARY, APPROPRIATE, AND COULD HELP REDUCE GREENHOUSE GAS EMISSIONS IN ALIGNMENT WITH THE "COLORADO GREENHOUSE GAS POLLUTION REDUCTION ROADMAP", PUBLISHED BY THE COLORADO ENERGY OFFICE; AND

(b) IDENTIFY THE UP-FRONT AND SERVICE LIFE ANNUALIZED COSTS AND BENEFITS OF THE ALTERNATIVES IDENTIFIED IN SUBSECTION (2)(a) OF THIS SECTION.

(3) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.

SECTION 5. In Colorado Revised Statutes, **add** 40-3.2-104.3, 40-3.2-104.4, 40-3.2-104.5, and 40-3.2-104.6 as follows:

40-3.2-104.3. Eliminating incentives for gas service to properties - gas line extension allowances - exemptions - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "APPLICANT" MEANS A PERSON THAT REQUESTS NATURAL GAS

SERVICE AND THAT OWNS THE REAL PROPERTY REQUIRING THE SERVICE. "APPLICANT" INCLUDES A DEVELOPER, BUILDER, LEGAL ENTITY, OR OTHER PERSON THAT HAS LEGAL AUTHORITY OVER THE PROPERTY.

(b) "DUAL-FUEL UTILITY" MEANS A UTILITY THAT OFFERS ITS CUSTOMERS BOTH ELECTRIC AND GAS SERVICE.

(c) "GAS UTILITY" MEANS A GAS UTILITY THAT THE COMMISSION REGULATES WITH RESPECT TO RATES AND CHARGES.

(d) "LINE EXTENSION ALLOWANCE" MEANS A BUNDLE OF COSTS THAT INCLUDES CONSTRUCTION ALLOWANCES FOR NEW SERVICE LINES, METERS, AND OTHER INFRASTRUCTURE ASSOCIATED WITH THE ADDITION OF A NEW CUSTOMER TO A GAS UTILITY'S DISTRIBUTION SYSTEM.

(2) (a) A GAS UTILITY SHALL NOT PROVIDE AN APPLICANT AN INCENTIVE, INCLUDING A LINE EXTENSION ALLOWANCE, TO ESTABLISH GAS SERVICE TO A PROPERTY.

(b) THE COMMISSION MAY REQUIRE A DUAL-FUEL UTILITY TO PROVIDE ITS CUSTOMERS THAT RECEIVE GAS AND ELECTRIC SERVICE FROM THE UTILITY WITH RELEVANT INFORMATION REGARDING OPTIONS FOR SWITCHING TO HIGH-EFFICIENCY ELECTRIC SPACE HEATING OR WATER HEATING, INCLUDING:

(I) A LIST OF APPLIANCES, FOR WHICH THE UTILITY PROVIDES INCENTIVES OR REBATES; AND

(II) FOR EXISTING OR PROSPECTIVE CUSTOMERS THAT ARE GOVERNMENT ENTITIES, A COST-BENEFIT ANALYSIS OF ELECTRIFICATION OPTIONS THAT INCLUDES UP-FRONT AND LIFETIME COSTS, WHICH ANALYSIS MUST TAKE INTO ACCOUNT AVAILABLE INCENTIVES AND REBATES AND USE A REASONABLE COST THAT REFLECTS GAS PRICE VOLATILITY.

(c) ON OR BEFORE DECEMBER 31, 2023, EACH GAS UTILITY SHALL FILE WITH THE COMMISSION AN UPDATED TARIFF TO REFLECT THE REMOVAL OF ANY INCENTIVES FOR AN APPLICANT TO ESTABLISH GAS SERVICE TO A PROPERTY.

(d) NOTWITHSTANDING SUBSECTION (2)(c) OF THIS SECTION, A

UTILITY MAY EXEMPT FROM THE UPDATED TARIFF ANY APPLICANT THAT:

(I) HAS ALREADY SUBMITTED AN APPLICATION THAT HAS BEEN APPROVED OR IS PENDING AS OF THE EFFECTIVE DATE OF THIS SECTION;

(II) CAN DEMONSTRATE OR ATTEST THAT THE APPLICANT HAS SUBMITTED A PERMIT APPLICATION TO THE LOCAL GOVERNMENT WITH PERMITTING AUTHORITY IN THE LOCATION OF THE PROPERTY AND THAT THE APPLICATION IS EITHER APPROVED OR PENDING AS OF THE EFFECTIVE DATE OF THIS SECTION; OR

(III) CAN DEMONSTRATE OR ATTEST THAT THE APPLICANT HAS SUBMITTED TO A LOCAL GOVERNMENT A SITE DEVELOPMENT PLAN OR PLAT THAT IS EITHER APPROVED OR PENDING AS OF THE EFFECTIVE DATE OF THIS SECTION; EXCEPT THAT AN APPLICANT THAT HAS SUBMITTED A SITE DEVELOPMENT PLAN OR PLAT FOR WHICH A PERMIT APPLICATION TO THE LOCAL GOVERNMENT HAS NOT BEEN APPROVED ON OR BEFORE DECEMBER 31, 2024, IS NOT EXEMPT.

40-3.2-104.4. Colorado energy office gas investment asset depreciation study - third-party evaluation - commission rules.

(1) (a) ON OR BEFORE JULY 1, 2024, THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101 (1) SHALL CONTRACT WITH AN INDEPENDENT THIRD PARTY TO EVALUATE THE RISK OF STRANDED OR UNDERUTILIZED NATURAL GAS INFRASTRUCTURE INVESTMENTS AND THE ANNUAL PROJECTED RATE IMPACT ON RATEPAYERS.

(b) THE EVALUATION MUST TAKE INTO ACCOUNT:

(I) ANY PROJECTED DECLINE IN GAS SALES;

(II) THE DECLINE IN THE NUMBER OF GAS CUSTOMERS; AND

(III) MEASURES TO ACHIEVE THE GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g).

(c) THE INDEPENDENT THIRD PARTY SHALL CONDUCT AN ANALYSIS OF, AND INCLUDE POLICY RECOMMENDATIONS RELATED TO, THE POTENTIAL IMPACTS OF STRANDED OR UNDERUTILIZED NATURAL GAS INFRASTRUCTURE ON UTILITY EMPLOYEES WHO WORK FOR, OR CONTRACT WORKERS WHO

PERFORM WORK FOR, INVESTOR-OWNED GAS UTILITIES. IN CONDUCTING THE STUDY, THE INDEPENDENT THIRD PARTY SHALL CONSULT WITH APPROPRIATE LABOR ORGANIZATIONS THAT REPRESENT UTILITY EMPLOYEES WHO WORK FOR, AND CONTRACT WORKERS WHO PERFORM WORK FOR, INVESTOR-OWNED GAS UTILITIES AND OTHER RELEVANT STAKEHOLDERS.

(2) AFTER THE INDEPENDENT THIRD-PARTY EVALUATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS COMPLETED, THE COLORADO ENERGY OFFICE SHALL SUBMIT A WRITTEN COPY OF THE FINDINGS AND CONCLUSIONS OF THE EVALUATION TO THE COMMISSION. THE COMMISSION SHALL REVIEW THE EVALUATION AND CONSIDER WHETHER ANY CHANGES TO RULES OR DEPRECIATION SCHEDULES ARE WARRANTED.

(3) (a) AN INVESTOR-OWNED GAS UTILITY SHALL PROVIDE AS PART OF ANY GAS INFRASTRUCTURE PLAN, OR AS OTHERWISE DIRECTED BY THE COMMISSION, A MAP SHOWING SYSTEM-WIDE LOCATIONS, AGES, AND MATERIALS OR TYPES OF GAS DISTRIBUTION SYSTEM PIPES, CONSISTENT WITH 49 CFR 191 AND SECTION 40-2-115 (1)(d).

(b) AS PART OF THE FILING, THE INVESTOR-OWNED GAS UTILITY SHALL ALSO PROVIDE INFORMATION ABOUT PIPES THAT MAY NEED TO BE UPGRADED OR REPLACED WITHIN TEN YEARS AFTER THE DATE THAT THE UTILITY FILES THE PLAN, UNLESS OTHERWISE DIRECTED BY THE COMMISSION.

(c) THE COMMISSION SHALL ENSURE THAT THE CONTENT OF THE MAP PROVIDED TO THE COMMISSION AND SHARING PROCEDURES ARE IN COMPLIANCE WITH THE PARAMETERS RELATED TO CRITICAL INFRASTRUCTURE REPORTING STANDARDS OF THE CALIFORNIA INSTITUTE FOR ENERGY AND ENVIRONMENT, OR ITS SUCCESSOR ORGANIZATION, AND THE SAFETY AND SYSTEM INTEGRITY STANDARDS OF THE AMERICAN PETROLEUM INSTITUTE, OR ITS SUCCESSOR ORGANIZATION.

(d) (I) AN INVESTOR-OWNED GAS UTILITY MAY DESIGNATE ANY MAP OR ASSOCIATED INFORMATION PROVIDED PURSUANT TO THIS SUBSECTION (3) AS CONTAINING CRITICAL INFRASTRUCTURE INFORMATION. IF THE COMMISSION DETERMINES THAT THE DESIGNATED MAP OR ASSOCIATED INFORMATION DOES NOT CONTAIN CRITICAL INFRASTRUCTURE INFORMATION, THE INVESTOR-OWNED GAS UTILITY MAY APPEAL THE COMMISSION'S DETERMINATION IN A COURT OF COMPETENT JURISDICTION BY FILING THE APPEAL WITHIN TEN DAYS AFTER THE COMMISSION'S DETERMINATION.

(II) IF THE COMMISSION DETERMINES THAT THE DISCLOSURE OF THE DESIGNATED MAP OR ASSOCIATED INFORMATION MAY EXPOSE OR CREATE VULNERABILITY TO CRITICAL INFRASTRUCTURE FACILITIES OR SYSTEMS, THE COMMISSION:

(A) SHALL LIMIT ACCESS TO THE DESIGNATED MAP OR ASSOCIATED INFORMATION TO INDIVIDUALS AT STATE AGENCIES THAT ARE PARTIES TO THE PROCEEDING IN WHICH THE MAP OR ASSOCIATED INFORMATION WAS PROVIDED; AND

(B) EXCEPT AS PROVIDED IN SUBSECTION (3)(d)(II)(A) OF THIS SECTION, SHALL NOT PROVIDE THE DESIGNATED MAP OR ASSOCIATED INFORMATION TO ANY PERSONS AND MAY ORDER THE INVESTOR-OWNED GAS UTILITY TO PROVIDE A PUBLIC REDACTED VERSION OF THE MAP OR ASSOCIATED INFORMATION THAT INCLUDES A GENERAL DESCRIPTION OF THE INFORMATION WITHOUT DETAILED LOCATION INFORMATION.

(III) A CUSTODIAN, AS DEFINED IN SECTION 24-72-202 (1.1), SHALL NOT RELEASE A MAP OR ASSOCIATED INFORMATION FOR WHICH THE COMMISSION HAS LIMITED ACCESS PURSUANT TO SUBSECTION (3)(d)(II) OF THIS SECTION IN RESPONSE TO ANY REQUEST TO INSPECT PUBLIC RECORDS PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

40-3.2-104.5. Customer disconnection from investor-owned gas utility service - rules. (1) AN INVESTOR-OWNED GAS UTILITY SHALL NOT PENALIZE OR CHARGE A FEE TO A CUSTOMER THAT VOLUNTARILY TERMINATES GAS SERVICE. ONCE A CUSTOMER HAS TERMINATED THE INVESTOR-OWNED UTILITY'S GAS SERVICE, THE UTILITY SHALL NOT CONTINUE TO CHARGE THE CUSTOMER ANY FEES. ANY COSTS ASSOCIATED WITH TERMINATION SHALL BE CONSIDERED PART OF GENERAL DISTRIBUTION SYSTEM INVESTMENTS AND ARE ELIGIBLE FOR COST RECOVERY.

(2) THE COMMISSION MAY ADOPT RULES TO ESTABLISH STANDARDS FOR A CUSTOMER'S VOLUNTARY DISCONNECTION FROM AN INVESTOR-OWNED GAS UTILITY'S GAS DISTRIBUTION SYSTEM. IF THE COMMISSION ADOPTS THE DISCONNECTION RULES, THE COMMISSION MUST CONSIDER:

(a) THE HEALTH AND SAFETY RISKS RELATED TO THE CUSTOMER NO LONGER USING THE GAS DISTRIBUTION SYSTEM;

(b) THE COST EFFECTIVENESS OF THE METHOD OF DISCONNECTION;

(c) THE USE OF, OR REQUIRING THE INSTALLATION OF, SHUT-OFF VALVES OR PIPELINE CAPS AS AN OPTION IN LIEU OF POTENTIALLY MORE COST-PROHIBITIVE EXCAVATION OR CONSTRUCTION ACTIVITIES TO REMOVE EXISTING GAS INFRASTRUCTURE;

(d) THE IMPACT ON STAFFING, INCLUDING ANY REQUIREMENTS AND PROCEDURES FOR UTILITY EMPLOYEES AND CONTRACT WORKERS;

(e) THE IMPACT ON CRITICAL REPAIRS, SCHEDULED MAINTENANCE, LEAK MITIGATION, AND OTHER RELATED ACTIVITIES; AND

(f) ANY OTHER CONSIDERATION THAT THE COMMISSION DEEMS APPROPRIATE.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO MEAN THAT A UTILITY CANNOT CHARGE AN INDIVIDUAL CUSTOMER FOR EXCAVATION OR CONSTRUCTION ACTIVITIES TO REMOVE EXISTING GAS INFRASTRUCTURE IF THE CUSTOMER HAS DECLINED THE MORE COST-EFFECTIVE METHODS TO DISCONNECT SERVICE.

40-3.2-104.6. Commission study on beneficial electrification - repeal. (1) ON OR BEFORE JANUARY 1, 2024, THE COMMISSION SHALL CONDUCT A STUDY TO BE COMPLETED NO LATER THAN MARCH 15, 2024, EXAMINING EXISTING INVESTOR-OWNED ELECTRIC UTILITY TARIFFS AND INTERCONNECTION POLICIES AND PRACTICES TO DETERMINE:

(a) IF THE TARIFFS, POLICIES, AND PRACTICES POSE A BARRIER TO THE BENEFICIAL ELECTRIFICATION OF TRANSPORTATION AND BUILDINGS AND THE OFFSETTING OF THAT ENERGY USE WITH DISTRIBUTED ENERGY RESOURCES;

(b) IF THE APPLICATION OF TRADITIONAL COST-CAUSATION AND COST RECOVERY PRINCIPLES POSE A BARRIER TO SUCH BENEFICIAL ELECTRIFICATION AND THE OFFSETTING OF THAT ENERGY USE WITH DISTRIBUTED ENERGY RESOURCES; AND

(c) WHETHER REQUIRING A CUSTOMER THAT SEEKS TO INTERCONNECT DISTRIBUTED ENERGY RESOURCES OR BENEFICIAL ELECTRIFICATION RESOURCES TO THE INVESTOR-OWNED ELECTRIC UTILITY'S

ELECTRIC GRID TO BEAR THE FULL INCREMENTAL COST OF TRANSFORMER OR SERVICE UPGRADES NEEDED AT THE TIME OF INTERCONNECTION IMPOSES AN UNDUE BURDEN ON THE CUSTOMER, WITH CONSIDERATION GIVEN TO METHODS FOR SHARING THE COST RECOVERY AMONG CUSTOMERS.

(2) IN CONDUCTING THE STUDY PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COMMISSION SHALL CONSIDER WHETHER TO DIRECT AN INVESTOR-OWNED ELECTRIC UTILITY TO MAKE CHANGES:

(a) TO ITS TARIFFS, POLICIES, PRACTICES, OR COST ALLOCATION;

(b) IN THE ALLOCATION OF DISTRIBUTION SYSTEM COSTS, INCLUDING THE COSTS OF TRANSFORMER, SUBSTATION, OR SERVICE UPGRADES AS PART OF THE UTILITY'S INVESTMENT IN ITS DISTRIBUTION SYSTEM; AND

(c) TO ITS DISTRIBUTION SYSTEM PLANNING PROCESS TO BETTER PLAN FOR AND ACCOMMODATE FUTURE BENEFICIAL ELECTRIFICATION AND DISTRIBUTED ENERGY RESOURCE INVESTMENTS TO ALIGN WITH THE STATE'S GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g).

(3) UPON COMPLETION OF THE STUDY, THE COMMISSION SHALL POST WRITTEN FINDINGS AND CONCLUSIONS FROM THE STUDY ON THE COMMISSION'S WEBSITE.

(4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.

SECTION 6. In Colorado Revised Statutes, 40-6-109, **amend** (1) as follows:

40-6-109. Hearings - orders - record - review - representation of entities in nonadjudicatory proceedings. (1) (a) (I) At the time fixed for any hearing before the commission, any commissioner, or an administrative law judge or at the time to which the ~~same~~ HEARING may have been continued, ~~the applicant, petitioner, complainant, the person, firm, or corporation complained of, and such persons, firms, or corporations as the commission may allow to intervene and such persons, firms, or corporations as will be interested in or affected by any order that may be made by the commission in such proceeding and who shall have become parties to the proceeding shall be~~ THE FOLLOWING PERSONS ARE entitled to be heard,

examine and cross-examine witnesses, and introduce evidence:

(A) THE APPLICANT;

(B) THE PETITIONER;

(C) THE COMPLAINANT;

(D) THE PERSON, FIRM, OR CORPORATION COMPLAINED OF;

(E) SUCH PERSONS, FIRMS, OR CORPORATIONS AS THE COMMISSION MAY ALLOW TO INTERVENE; AND

(F) SUCH PERSONS, FIRMS, OR CORPORATIONS AS WILL BE INTERESTED IN OR AFFECTED BY ANY ORDER THAT MAY BE MADE BY THE COMMISSION IN SUCH PROCEEDING AND WHO SHALL HAVE BECOME PARTIES TO THE PROCEEDING.

(II) ALL PARTIES IN INTEREST ARE ENTITLED TO BE HEARD IN PERSON OR BY ATTORNEY.

(b) IN A PROCEEDING BEFORE THE COMMISSION THAT RELATES TO AN INVESTOR-OWNED UTILITY'S APPLICATION FOR COST RECOVERY, THE COMMISSION SHALL PERMIT A WHOLESALE CUSTOMER OF THE UTILITY TO INTERVENE IF THE CUSTOMER DEMONSTRATES A PECUNIARY OR TANGIBLE INTEREST IN THE PROCEEDING.

(c) A REPORTER APPOINTED BY THE COMMISSION, A COMMISSIONER IF DEEMED APPROPRIATE BY THE COMMISSION, OR, AS APPLICABLE, AN ADMINISTRATIVE LAW JUDGE SHALL TAKE DOWN AND RECORD ELECTRONICALLY a full and complete record of all proceedings had before the commission, any commissioner, or an administrative law judge in any formal hearing and all testimony. ~~shall be taken down by any reporter appointed by the commission or, as deemed appropriate by the commission, a commissioner, or an administrative law judge, as applicable, recorded electronically.~~ All parties in interest shall be entitled to be heard in person or by attorney.

SECTION 7. Appropriation. (1) For the 2023-24 state fiscal year, \$1,347,554 is appropriated to the department of regulatory agencies. This

appropriation is from the public utilities commission fixed utility fund created in section 40-2-114 (1)(b)(II), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$307,883 for use by the public utilities commission for personal services, which amount is based on an assumption that the commission will require an additional 3.3 FTE;

(b) \$31,135 for use by the public utilities commission for operating expenses;

(c) \$271,406 for use by the office of the utility consumer advocate for personal services, which amount is based on an assumption that the office will require an additional 2.5 FTE;

(d) \$23,385 for use by the office of the utility consumer advocate for operating expenses; and

(e) \$713,745 for the purchase of legal services.

(2) For the 2023-24 state fiscal year, \$713,745 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(e) of this section and is based on an assumption that the department of law will require an additional 3.8 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

(3) For the 2023-24 state fiscal year, \$142,749 is appropriated to the department of law. This appropriation is from the legal services cash fund created in section 24-31-108 (4), C.R.S., from revenue received from the Colorado energy office in the office of the governor that originates as custodial federal funds that the Colorado energy office has authority to expend. The appropriation to the department of law is based on an assumption that the department of law will require an additional 0.8 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the Colorado energy office in the office of the governor.

SECTION 8. Act subject to petition - effective date -

applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO