

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



SENATE BILL 19-236

BY SENATOR(S) Garcia and Fenberg, Winter, Fields, Ginal, Gonzales, Moreno, Pettersen, Priola, Rodriguez;  
also REPRESENTATIVE(S) Hansen and Becker, Arndt, Bird, Buentello, Cutter, Duran, Kipp, McCluskie, Michaelson Jenet, Roberts, Sirota, Snyder, Tipper, Valdez A.

CONCERNING THE CONTINUATION OF THE PUBLIC UTILITIES COMMISSION,  
AND, IN CONNECTION THEREWITH, IMPLEMENTING THE  
RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET REPORT BY THE  
DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN  
APPROPRIATION.

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

**SECTION 1.** In Colorado Revised Statutes, 40-2-101, **amend**  
(3)(b) as follows:

**40-2-101. Creation - appointment - term - subject to termination**  
**- repeal of part.** (3) (b) (I) This part 1 is repealed, effective September 1,  
2019 2026.

(II) ~~Prior to its~~ BEFORE THE repeal, the public utilities commission

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*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.*

~~shall be reviewed as provided for in~~ IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

**SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal** (17)(a)(I); and **add** (27)(a)(XVI) as follows:

**24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.** (17) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2019:

(I) ~~The Colorado public utilities commission created in article 2 of title 40, C.R.S.;~~

(27) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2026:

(XVI) THE COLORADO PUBLIC UTILITIES COMMISSION CREATED IN ARTICLE 2 OF TITLE 40.

**SECTION 3.** In Colorado Revised Statutes, **repeal** 40-2-123 (2).

**SECTION 4.** In Colorado Revised Statutes, 40-2-124, **amend** (1) introductory portion; and **repeal** (1)(f)(I) as follows:

**40-2-124. Renewable energy standards - qualifying retail and wholesale utilities - definitions - net metering - legislative declaration.** (1) Each provider of retail electric service in the state of Colorado, other than municipally owned utilities that serve forty thousand customers or fewer, is a qualifying retail utility. Each qualifying retail utility, with the exception of cooperative electric associations that have voted to exempt themselves from commission jurisdiction pursuant to section 40-9.5-104 and municipally owned utilities, is subject to the rules established under this ~~article~~ ARTICLE 2 by the commission. No additional regulatory authority is provided to the commission other than that specifically contained in this section. In accordance with article 4 of title 24, ~~C.R.S.~~, the commission shall revise or clarify existing rules to establish the following:

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

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

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

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

**40-2-125.5. Carbon dioxide emission reductions - goal to eliminate by 2050 - legislative declaration - interim targets - submission and approval of plans - definitions - cost recovery - reports.**

**(1) Legislative declaration.** THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) IT IS A MATTER OF STATEWIDE IMPORTANCE TO PROMOTE THE DEVELOPMENT OF COST-EFFECTIVE CLEAN ENERGY AND NEW TECHNOLOGIES AND REDUCE THE CARBON DIOXIDE EMISSIONS FROM THE COLORADO

ELECTRIC GENERATING SYSTEM;

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

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

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

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

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

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

(b) "CLEAN ENERGY RESOURCE" MEANS ANY ELECTRICITY-GENERATING TECHNOLOGY THAT GENERATES OR STORES ELECTRICITY WITHOUT EMITTING CARBON DIOXIDE INTO THE ATMOSPHERE. CLEAN ENERGY RESOURCES INCLUDE, WITHOUT LIMITATION, ELIGIBLE

ENERGY RESOURCES AS DEFINED IN SECTION 40-2-124 (1)(a).

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

(II) "QUALIFYING RETAIL UTILITY" DOES NOT INCLUDE A MUNICIPALLY OWNED UTILITY.

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

(I) BY 2030, THE QUALIFYING RETAIL UTILITY SHALL REDUCE THE CARBON DIOXIDE EMISSIONS ASSOCIATED WITH ELECTRICITY SALES TO THE QUALIFYING RETAIL UTILITY'S ELECTRICITY CUSTOMERS BY EIGHTY PERCENT FROM 2005 LEVELS.

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

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

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

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

(3)(a)(II) OF THIS SECTION IN ACCORDANCE WITH THE FOLLOWING:

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

(II) THE CLEAN ENERGY PLAN SUBMITTED TO THE COMMISSION MUST SET FORTH A PLAN OF ACTIONS AND INVESTMENTS BY THE QUALIFYING RETAIL UTILITY PROJECTED TO ACHIEVE COMPLIANCE WITH THE CLEAN ENERGY TARGETS IN SUBSECTIONS (3)(a)(I) AND (3)(a)(II) OF THIS SECTION AND THAT RESULT IN AN AFFORDABLE, RELIABLE, AND CLEAN ELECTRIC SYSTEM.

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

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

(V) THE CLEAN ENERGY PLAN MUST DESCRIBE THE EFFECT OF THE ACTIONS AND INVESTMENTS INCLUDED IN THE CLEAN ENERGY PLAN ON THE SAFETY, RELIABILITY, RENEWABLE ENERGY INTEGRATION, AND RESILIENCE OF ELECTRIC SERVICE IN THE STATE OF COLORADO.

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

(VII) IF THE CLEAN ENERGY PLAN INCLUDES ACCELERATED RETIREMENT OF ANY EXISTING GENERATING FACILITIES, THE CLEAN ENERGY PLAN MUST INCLUDE WORKFORCE TRANSITION AND COMMUNITY ASSISTANCE PLANS FOR UTILITY WORKERS IMPACTED BY ANY CLEAN ENERGY PLAN AND A PLAN TO PAY COMMUNITY ASSISTANCE TO ANY LOCAL GOVERNMENT OR SCHOOL DISTRICT, THE VOTERS OF WHICH HAVE APPROVED PROJECTS THE COSTS OF WHICH ARE EXPECTED TO BE PAID FOR FROM PROPERTY TAXES THAT ARE DIRECTLY IMPACTED BY THE ACCELERATED RETIREMENT OF THE ELECTRIC GENERATING FACILITY IN AN AMOUNT EQUAL TO THE COSTS OF THE VOTER-APPROVED PROJECTS THAT WERE EXPECTED TO BE PAID FROM THE REVENUE SOURCES DIRECTLY IMPACTED BY THE ACCELERATED RETIREMENT OF THE PROJECTS, INCLUDING BUT NOT LIMITED TO THE PAYMENT OF BONDS, NOTES, OR OTHER MULTIPLE-FISCAL YEAR OBLIGATIONS OR LEASE PURCHASE AGREEMENTS THAT HAVE BEEN ISSUED OR ENTERED INTO TO PAY THE COSTS OF SUCH PROJECTS. ANY PAYMENT OF COMMUNITY ASSISTANCE SHALL BE REDUCED ON AN EQUIVALENT BASIS TO THE EXTENT THAT PROPERTY TAX IS DERIVED FROM NEW ELECTRIC INFRASTRUCTURE DEVELOPED IN THE SAME IMPACTED COMMUNITY. THE QUALIFYING RETAIL UTILITY MAY PROPOSE A COST-RECOVERY MECHANISM TO RECOVER THE PRUDENTLY INCURRED COSTS OF ANY WORKFORCE TRANSITION AND COMMUNITY ASSISTANCE PLANS, WHILE GIVING DUE CONSIDERATION TO THE IMPACT ON LOW-INCOME CUSTOMERS. THE QUALIFYING RETAIL UTILITY WILL NOT EARN ITS AUTHORIZED RATE OF RETURN ON ANY NONCAPITAL COSTS INCURRED AS PART OF ANY WORKFORCE TRANSITION PLAN. THE WORKFORCE TRANSITION AND COMMUNITY ASSISTANCE PLANS MUST INCLUDE, TO THE EXTENT FEASIBLE, ESTIMATES OF:

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

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

(C) WITH RESPECT TO THE EXISTING WORKERS WITH JOBS THAT WILL

BE ELIMINATED DUE TO THE RETIREMENT OF THE ELECTRIC GENERATING FACILITY, THE TOTAL NUMBER AND NUMBER BY JOB CLASSIFICATION OF WORKERS FOR WHOM: EMPLOYMENT WILL END WITHOUT BEING OFFERED OTHER EMPLOYMENT BY THE UTILITY; THE WORKERS WILL RETIRE AS PLANNED, BE OFFERED EARLY RETIREMENT, OR LEAVE VOLUNTARILY; THE WORKERS WILL BE RETAINED BY BEING TRANSFERRED TO OTHER ELECTRIC GENERATING FACILITIES OR OFFERED OTHER EMPLOYMENT BY THE UTILITY; AND THE WORKERS WILL BE RETAINED TO CONTINUE TO WORK FOR THE UTILITY IN A NEW JOB CLASSIFICATION;

(D) IF THE UTILITY IS REPLACING THE ELECTRIC GENERATING FACILITY BEING RETIRED WITH A NEW ELECTRIC GENERATING FACILITY: THE NUMBER OF WORKERS FROM THE RETIRED ELECTRIC GENERATING FACILITY THAT WILL BE OFFERED EMPLOYMENT AT THE NEW ELECTRIC GENERATING FACILITY; AND THE NUMBER OF JOBS AT THE NEW ELECTRIC GENERATING FACILITY THAT WILL BE OUTSOURCED TO SUBCONTRACTORS. THE UTILITY SHALL DEVELOP A TRAINING OR APPRENTICESHIP PROGRAM, UNDER THE TERMS OF AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT, IF ANY, FOR THE MAINTENANCE AND OPERATION OF ANY NEW COMBINATION GENERATION AND STORAGE FACILITY OWNED BY THE UTILITY THAT DOES NOT EMIT CARBON DIOXIDE, TO WHICH FACILITY DISPLACED WORKERS MAY TRANSFER AS APPROPRIATE.

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

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



(c) AFTER CONSULTING WITH THE AIR QUALITY CONTROL COMMISSION, THE DIVISION OF ADMINISTRATION SHALL DETERMINE WHETHER A CLEAN ENERGY PLAN AS FILED UNDER THIS SECTION WILL RESULT IN AN EIGHTY-PERCENT REDUCTION, RELATIVE TO 2005 LEVELS, IN CARBON DIOXIDE EMISSIONS FROM THE QUALIFYING RETAIL UTILITY'S COLORADO ELECTRICITY SALES BY 2030 AND IS OTHERWISE CONSISTENT WITH ANY GREENHOUSE GAS EMISSION REDUCTION GOALS ESTABLISHED BY THE STATE OF COLORADO. THE DIVISION SHALL PUBLISH, AND SHALL REPORT TO THE PUBLIC UTILITIES COMMISSION, THE DIVISION'S CALCULATION OF CARBON DIOXIDE EMISSION REDUCTIONS ATTRIBUTABLE TO ANY APPROVED CLEAN ENERGY PLAN. NOTHING IN THE DIVISION'S ENGAGEMENT IN THIS PROCESS SHALL BE CONSTRUED TO DIMINISH OR OVERRIDE THE COMMISSION'S AUTHORITY UNDER THIS TITLE 40.

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

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

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

(III) WHETHER THE CLEAN ENERGY PLAN WILL RESULT IN A REASONABLE COST TO CUSTOMERS, AS EVALUATED ON A NET PRESENT VALUE BASIS. IN EVALUATING THE COST IMPACTS OF THE CLEAN ENERGY PLAN, THE COMMISSION SHALL CONSIDER THE EFFECT ON CUSTOMERS OF THE PROJECTED COSTS ASSOCIATED WITH THE PLAN AS SET FORTH IN SUBSECTION (4)(a)(VI) OF THIS SECTION AS WELL AS ANY PROJECTED SAVINGS ASSOCIATED WITH THE PLAN, INCLUDING PROJECTED AVOIDED FUEL COSTS.

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

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

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

(II) A QUALIFYING RETAIL UTILITY SHALL COLLECT REVENUES FOR THE ADDITIONAL CLEAN ENERGY PLAN ACTIVITIES THROUGH A CLEAN ENERGY PLAN REVENUE RIDER ASSESSED ON A PERCENTAGE BASIS ON ALL RETAIL CUSTOMER BILLS, AS DEEMED PRUDENT BY THE COMMISSION. THE REVENUE RIDER MAY BE ESTABLISHED AS EARLY AS THE YEAR FOLLOWING APPROVAL OF A CLEAN ENERGY PLAN BY THE COMMISSION, AND THE QUALIFYING RETAIL UTILITY MAY PROPOSE A COMMENCEMENT DATE AND LEVEL NO GREATER THAN THE MAXIMUM ELECTRIC RETAIL RATE IMPACT. THE REVENUE RIDER SHALL AFFORD THE QUALIFYING RETAIL UTILITY COST RECOVERY TREATMENT UP TO THE MAXIMUM ELECTRIC RETAIL RATE IMPACT UNTIL THE FIRST RATE CASE FOLLOWING THE FINAL IMPLEMENTATION OF THE CLEAN ENERGY PLAN, AT WHICH TIME THE REMAINING COSTS AND SAVINGS ASSOCIATED WITH THE CLEAN ENERGY PLAN WILL BE INCORPORATED INTO BASE RATES. THE QUALIFYING RETAIL UTILITY MAY PROPOSE TO ADJUST THE LEVEL OF THE RETAIL RATE RIDER OVER TIME SO LONG AS IT DOES NOT EXCEED THE MAXIMUM RETAIL RATE IMPACT AND AS DEEMED PRUDENT BY THE COMMISSION. NOTHING IN THIS SUBSECTION (5) AFFECTS THE COMMISSION'S AUTHORITY TO EVALUATE THE PRUDENCE OF COSTS ASSOCIATED WITH APPROVED CLEAN ENERGY PLAN ACTIVITIES.

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

(A) FUEL AND TRANSMISSION COSTS;

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

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

(D) THE INCREMENTAL COSTS OF ANY CLEAN ENERGY RESOURCES AND THEIR DIRECTLY RELATED INTERCONNECTION FACILITIES THAT, SUBJECT TO COMMISSION APPROVAL, ARE RECOVERED WITH FUNDS COLLECTED UNDER SECTION 40-2-124 (1)(g) IN ACCORDANCE WITH SUBSECTION (4)(a)(VIII) OF THIS SECTION. SAVINGS ASSOCIATED WITH THE PLAN WILL RETURN TO CUSTOMERS THROUGH EXISTING RATE RIDERS AND BASE RATE ADJUSTMENTS.

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

(A) THE AMOUNT OF RIDER COLLECTIONS;

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

(C) ANY POSITIVE OR NEGATIVE RIDER ACCOUNT BALANCE;

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

(E) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

(V) IN THE FIRST RATE CASE FOLLOWING THE FINAL IMPLEMENTATION OF THE CLEAN ENERGY PLAN, THE COMMISSION SHALL CONDUCT A FINAL RECONCILIATION OF THE CLEAN ENERGY PLAN REVENUE RIDER AND DETERMINE HOW TO ACCOUNT FOR ANY POSITIVE OR NEGATIVE

RIDER BALANCE. IN THE MANNER DETERMINED BY THE COMMISSION, ANY REMAINING POSITIVE BALANCE SHALL BE RETURNED TO CUSTOMERS OR USED TO REDUCE CUSTOMER RATES AND ANY NEGATIVE BALANCE SHALL BE INCORPORATED INTO THE QUALIFYING RETAIL UTILITY'S RATES.

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

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

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

(e) THE COMMISSION MAY, ON ITS OWN MOTION OR UPON APPLICATION BY A QUALIFYING RETAIL UTILITY, AMEND AN APPROVED CLEAN ENERGY PLAN IF AMENDMENT IS NECESSARY TO ENSURE THE RELIABILITY AND RESILIENCE OF THE ELECTRIC SYSTEM. THE COMMISSION

MAY REQUIRE THE QUALIFYING RETAIL UTILITY TO PROVIDE SUCH PERIODIC REPORTS ON THE RELIABILITY AND RESILIENCY OF THE ELECTRIC SYSTEM AS IT MAY DEEM APPROPRIATE TO ENSURE THE CLEAN ENERGY PLAN DOES NOT ADVERSELY IMPACT RELIABILITY OR RESILIENCY.

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

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

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

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

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

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

(6) **Reports.** ONE YEAR AFTER APPROVAL OF ANY ELECTRIC RESOURCE PLAN THAT INCORPORATES A CLEAN ENERGY PLAN, THE QUALIFYING RETAIL UTILITY SHALL PREPARE A REPORT TO THE GOVERNOR,

THE GENERAL ASSEMBLY, THE PUBLIC UTILITIES COMMISSION, AND THE AIR QUALITY CONTROL COMMISSION OUTLINING PROGRESS TOWARD THE CLEAN ENERGY TARGETS SET FORTH IN THIS SECTION. THE REPORT MUST SET FORTH THE CLEAN ENERGY RESOURCES DEVELOPED UNDER ANY CLEAN ENERGY PLAN, THE COST AND CUSTOMER IMPACT OF THOSE CLEAN ENERGY RESOURCES, THE EFFECT OF ANY APPROVED CLEAN ENERGY PLAN ON SYSTEM RELIABILITY, AND ANY OTHER RELEVANT INFORMATION. THE REPORT MUST ALSO IDENTIFY THE NEED FOR NEW OR ADDITIONAL TECHNOLOGY DEVELOPMENT NECESSARY TO ACHIEVE THE CLEAN ENERGY TARGETS OF THIS SECTION.

(7) **Future electric resource plans.** ANY ELECTRIC RESOURCE PLAN SUBMITTED TO THE COMMISSION AFTER APPROVAL OF THE CLEAN ENERGY PLAN MUST INCLUDE AN UPDATE ON THE PROGRESS MADE TOWARD THE APPROVED CLEAN ENERGY PLAN, AS WELL AS ACTIONS AND INVESTMENTS BY THE QUALIFYING RETAIL UTILITY PROJECTED TO ACHIEVE COMPLIANCE WITH THE EMISSION REDUCTION TARGET IDENTIFIED IN SUBSECTION (3)(a)(I) OF THIS SECTION AND MAKE PROGRESS TOWARD THE ONE-HUNDRED-PERCENT CLEAN ENERGY GOAL SET FORTH IN SUBSECTION (3)(a)(II) OF THIS SECTION. THE COMMISSION MAY SOLICIT INPUT FROM THE DIVISION OF ADMINISTRATION FOR ASSISTANCE IN EVALUATING THE EMISSION REDUCTIONS ASSOCIATED WITH ANY FUTURE ELECTRIC RESOURCE PLAN AND CONSISTENT WITH THE CLEAN ENERGY TARGETS OF THIS SECTION. THE COMMISSION SHALL REVIEW THE QUALIFYING RETAIL UTILITY'S ACTIONS AND INVESTMENTS IN ACCORDANCE WITH THE STANDARDS SET FORTH IN SUBSECTION (4)(d) OF THIS SECTION.

**SECTION 6.** In Colorado Revised Statutes, 40-2-127, **amend** (3)(b) introductory portion; and **add** (5)(a)(III.5) as follows:

**40-2-127. Community energy funds - community solar gardens - definitions - rules - legislative declaration - repeal.** (3) **Subscriber organization - subscriber qualifications - transferability of subscriptions.** (b) ~~On or before October 1, 2010, The commission shall commence a rule-making proceeding to adopt rules as necessary to implement this section, including but not limited to rules to facilitate the financing of subscriber-owned community solar gardens. Such~~ THE rules ~~shall~~ MUST include:

(5) **Purchases of the output from community solar gardens.**

(a) (III.5) SUBSECTIONS (5)(a)(II) AND (5)(a)(III) OF THIS SECTION AND THIS SUBSECTION (5)(a)(III.5) ARE REPEALED, EFFECTIVE JULY 1, 2043.

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

**40-2-129. New resource acquisitions - factors in determination - local employment - "best value" metrics.** (1) (a) When evaluating electric resource acquisitions and requests for a certificate of convenience and necessity for construction or expansion of generating facilities, including but not limited to pollution control or fuel conversion upgrades and conversion of existing coal-fired plants to natural gas plants, the commission shall consider, ~~on a qualitative basis, factors that affect employment and~~ IN ALL DECISIONS INVOLVED IN ELECTRIC RESOURCE ACQUISITION PROCESSES, BEST VALUE REGARDING EMPLOYMENT OF COLORADO LABOR, AS DEFINED IN SECTION 8-17-101 (2)(a), AND POSITIVE IMPACTS ON the long-term economic viability of Colorado communities. To this end, the commission shall require utilities to ~~request~~ OBTAIN AND PROVIDE TO THE COMMISSION the following information regarding "best value" employment metrics: The availability of training programs, including training through apprenticeship programs registered with the United States department of ~~labor~~, LABOR'S office of apprenticeship and training OR BY STATE APPRENTICESHIP COUNCILS RECOGNIZED BY THAT OFFICE; employment of Colorado ~~workers~~ LABOR as compared to importation of out-of-state workers; long-term career opportunities; and industry-standard wages, health care, and pension benefits. When a utility proposes to construct new facilities of its own, the utility shall supply similar information to the commission.

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

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

(II) IN THE ALTERNATIVE, CERTIFY COMPLIANCE WITH OBJECTIVE BEST VALUE EMPLOYMENT METRICS PERFORMANCE STANDARDS SET FORTH

IN THE SOLICITATION DOCUMENT.

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

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

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

(b) MANAGEMENT FUNCTIONS TO OPERATE THE INFRASTRUCTURE;  
OR

(c) ANY WORK INCLUDED IN A WARRANTY.

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

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

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

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

(a) DEFINE THE FOLLOWING TERMS:

(I) DISTRIBUTED ENERGY RESOURCES THAT INCLUDE:



- (A) DISTRIBUTED RENEWABLE ELECTRIC GENERATION;
- (B) ENERGY STORAGE SYSTEMS CONNECTED TO THE DISTRIBUTION GRID;
- (C) MICROGRIDS;
- (D) ENERGY EFFICIENCY MEASURES; AND
- (E) DEMAND RESPONSE MEASURES; AND
- (II) NON-WIRES ALTERNATIVES;
  - (b) DEVELOP A METHODOLOGY FOR EVALUATING THE COSTS AND NET BENEFITS OF USING DISTRIBUTED ENERGY RESOURCES AS NON-WIRES ALTERNATIVES;
  - (c) DETERMINE A THRESHOLD FOR THE SIZE OF A NEW DISTRIBUTION PROJECT, WHETHER IN DOLLARS, METERS, OR ANOTHER FACTOR, AS DETERMINED BY THE COMMISSION, FOR WHEN A QUALIFYING RETAIL UTILITY MUST CONSIDER IMPLEMENTATION OR USE OF NON-WIRES ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES UNDER UTILITY PROGRAMS FOR NEW ELECTRIC SERVICE TO ANY PLANNED NEW NEIGHBORHOODS OR HOUSING DEVELOPMENTS;
  - (d) DIRECT EACH QUALIFYING RETAIL UTILITY TO FILE A DISTRIBUTION SYSTEM PLAN;
  - (e) DETERMINE WHAT SHALL BE INCLUDED IN A DISTRIBUTION SYSTEM PLAN, WHICH AT A MINIMUM MUST INCLUDE THE FOLLOWING:
    - (I) INFORMATION REGARDING:
      - (A) SYSTEM AND SUBSTATION HISTORICAL DATA;
      - (B) PEAK DEMAND;
      - (C) ADOPTION OF DISTRIBUTED ENERGY RESOURCES; AND
      - (D) DISTRIBUTION SYSTEM INVESTMENTS;

(II) TO PROVIDE NEW ELECTRIC SERVICE TO ANY PLANNED NEW NEIGHBORHOODS OR HOUSING DEVELOPMENTS EXPECTED TO INCLUDE MORE THAN TEN THOUSAND NEW RESIDENCES, A DESCRIPTION OF THE QUALIFYING RETAIL UTILITY'S CONSIDERATION OF NON-WIRES ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES UNDER UTILITY PROGRAMS;

(III) AN UPDATED LOAD FORECAST THAT INCLUDES ANY NEW LOAD RESULTING FROM PROJECTED OR FORECASTED GROWTH FROM BENEFICIAL ELECTRIFICATION PROGRAMS;

(IV) A FORECAST OF THE GROWTH OF DISTRIBUTED ENERGY RESOURCES FOR THE YEARS COVERED BY THE PLAN;

(V) A HIGH-LEVEL SUMMARY OF ITS PLANNING PROCESS FOR ADDRESSING CYBER AND PHYSICAL SECURITY RISKS. AS PART OF THE SUMMARY, THE QUALIFYING RETAIL UTILITY NEED NOT REPORT ANY CONFIDENTIAL, PROPRIETARY, OR OTHER INFORMATION IN THE PLAN THAT COULD IN ANY WAY COMPROMISE OR DECREASE THE QUALIFYING RETAIL UTILITY'S ABILITY TO PREVENT, MITIGATE, OR RECOVER FROM POTENTIAL SYSTEM DISRUPTIONS CAUSED BY WEATHER EVENTS, PHYSICAL EVENTS, OR CYBER ATTACKS.

(VI) A PROPOSED COST-RECOVERY METHOD OR MECHANISM FOR ANY NON-WIRES ALTERNATIVE INVESTMENTS FOUND TO BE OUTSIDE THE ORDINARY COURSE OF BUSINESS;

(VII) A DESCRIPTION OF THE QUALIFYING RETAIL UTILITY'S ANTICIPATED NEW DISTRIBUTION SYSTEM EXPANSION INVESTMENTS FOR THE YEARS COVERED BY THE PLAN;

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

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

(X) ANY OTHER INFORMATION THAT THE COMMISSION DEEMS

RELEVANT.

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

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

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

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

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

(1) A QUALIFYING RETAIL UTILITY REGULATED BY THE COMMISSION THAT SUBMITS A FILING, INCLUDING A RESOURCE PLAN OR APPLICATION, THAT INCLUDES A PROPOSED ACCELERATED RETIREMENT OF AN ELECTRIC GENERATING FACILITY SHALL ALSO INCLUDE A WORKFORCE TRANSITION PLAN AS PART OF ITS FILING.

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

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

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

(I) WILL BE RETAINED; AND

(II) WILL BE ELIMINATED;

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

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

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

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

(IV) WHO WILL BE RETAINED TO CONTINUE TO WORK FOR THE QUALIFYING RETAIL UTILITY IN A NEW JOB CLASSIFICATION; AND

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

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

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

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

**40-2-134. Wholesale electric cooperatives - electric resource planning - definition - rules.** (1) (a) THE COMMISSION SHALL PROMULGATE RULES THAT REQUIRE EACH WHOLESale ELECTRIC COOPERATIVE TO SUBMIT

TO THE COMMISSION AN APPLICATION FOR APPROVAL OF AN INTEGRATED OR ELECTRIC RESOURCE PLAN. THE COMMISSION SHALL EVALUATE A WHOLESALE ELECTRIC COOPERATIVE PLAN USING RULES THAT THE COMMISSION HAS ADOPTED THAT ARE APPLICABLE TO WHOLESALE ELECTRIC COOPERATIVES.

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

(I) SERVES A MULTISTATE OPERATIONAL JURISDICTION;

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

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

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

**SECTION 9.** In Colorado Revised Statutes, **add** 40-2-135 as follows:

**40-2-135. Retail distributed generation - customers' rights - rules.** A RETAIL ELECTRIC UTILITY CUSTOMER IS ENTITLED TO GENERATE, CONSUME, STORE, AND EXPORT ELECTRICITY PRODUCED FROM ELIGIBLE ENERGY RESOURCES TO THE ELECTRIC GRID THROUGH THE USE OF CUSTOMER-SITED RETAIL DISTRIBUTED GENERATION, AS DEFINED IN SECTION 40-2-124 (1)(a)(VIII), SUBJECT TO RELIABILITY STANDARDS, INTERCONNECTION RULES, AND PROCEDURES, AS DETERMINED BY THE COMMISSION.

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

**40-3-104. Changes in rates - notice.** (1) (c) (I) A public utility shall provide the notice required under ~~paragraph (a) of this subsection (1)~~

SUBSECTION (1)(a) OF THIS SECTION by filing with the commission and keeping open for public inspection new schedules stating plainly the changes to be made in the schedules then in force and the time when the changes will go into effect. AT THE TIME OF THE PUBLIC UTILITY'S FILING WITH THE COMMISSION, THE PUBLIC UTILITY SHALL POST THE NOTICE ON ITS PUBLIC WEBSITE, INCLUDING A REFERENCE TO THE DOCKET NUMBERS OF RELEVANT RULES OR ADJUDICATORY MATTERS, WHICH POSTING MUST BE CONSPICUOUSLY DISPLAYED ON THE WEBSITE FOR AT LEAST THIRTY DAYS. The commission may require transportation and water utilities to give additional notice in a manner set forth by order or rule. For public utilities other than transportation and water utilities, the commission shall require additional notice prior to an increase or other change in any rate, fare, toll, rental, charge, classification, or service, which additional notice may be made, at the option of the public utility, by any of the following methods:

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

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

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

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

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

(B) A TOLL-FREE TELEPHONE NUMBER ASSOCIATED WITH THE PUBLIC UTILITY THAT A CUSTOMER MAY CALL FOR ADDITIONAL INFORMATION OR ASSISTANCE. IF A PUBLIC UTILITY SENDS ADDITIONAL NOTICE BY E-MAIL OR

TEXT MESSAGE PURSUANT TO SUBSECTION (1)(c)(I)(D) OF THIS SECTION, THE E-MAIL OR TEXT MESSAGE NEED NOT INCLUDE ALL INFORMATION REQUIRED BY THIS SUBSECTION (1)(c)(VI); HOWEVER, THE E-MAIL OR TEXT MESSAGE MUST INCLUDE A LINK TO THE PORTION OF THE PUBLIC UTILITY'S PUBLIC WEBSITE WHERE THAT INFORMATION IS POSTED.

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

**SECTION 11.** In Colorado Revised Statutes, **add 40-3-117 and 40-3-118** as follows:

**40-3-117. Performance-based rate-making - investigation - report - repeal.** (1) THE COMMISSION SHALL CONDUCT AN INVESTIGATION OF FINANCIAL PERFORMANCE-BASED INCENTIVES AND PERFORMANCE-BASED METRIC TRACKING TO IDENTIFY MECHANISMS THAT MAY SERVE TO ALIGN REGULATED UTILITY OPERATIONS, EXPENDITURES, AND INVESTMENTS WITH PUBLIC BENEFIT GOALS INCLUDING SAFETY, RELIABILITY, COST EFFICIENCY, EMISSIONS REDUCTIONS, AND EXPANSION OF DISTRIBUTED ENERGY RESOURCES. THE INVESTIGATION, WHICH SHALL BE CONDUCTED IN AN INVESTIGATORY PROCEEDING, MUST CONSIST OF A REVIEW OF EXISTING AND POTENTIAL METRICS, INCLUDING FUTURE TEST YEARS, AND CONSIDERATION OF NEW PERFORMANCE-BASED INCENTIVES.

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

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

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

(III) DIRECTIVES TO BE GIVEN TO UTILITIES;

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

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

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

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

**40-3-118. Electric utility retail rates survey - nonadjudicatory proceeding - definition - report - repeal.** (1) (a) THE COMMISSION SHALL OPEN A NONADJUDICATORY PROCEEDING TO CONDUCT A SURVEY OF ELECTRIC PUBLIC UTILITY RETAIL RATES AND SPECIFICALLY CONSIDER RECOMMENDATIONS THAT WOULD RESULT IN RATE RELIEF IN CERTIFICATED ELECTRIC UTILITY TERRITORIES WITH RETAIL RATES MATERIALLY GREATER THAN THE STATE AVERAGE. THE COMMISSION SHALL DETERMINE THE MINIMUM PERCENTAGE BY WHICH A RETAIL RATE THAT EXCEEDS THE STATE AVERAGE RATE QUALIFIES AS A MATERIALLY GREATER RATE.

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

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



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

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

**ARTICLE 2.3**  
**Colorado Transmission Coordination Act**

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

(1) "ELECTRIC UTILITY" MEANS A PUBLIC UTILITY AS DEFINED IN SECTION 40-1-103.

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

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

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

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

**40-2.3-102. Commission proceeding - evaluate participation in energy imbalance market, regional transmission organization, power pool, or joint tariff.** (1) ON OR BEFORE JANUARY 1, 2020, THE COMMISSION

SHALL OPEN A PROCEEDING TO INVESTIGATE THE POTENTIAL COSTS AND BENEFITS TO ELECTRIC UTILITIES, OTHER GENERATORS, AND COLORADO ELECTRIC UTILITY CUSTOMERS THAT WOULD ARISE FROM ELECTRIC UTILITIES PARTICIPATING IN ANY ENERGY IMBALANCE MARKETS, REGIONAL TRANSMISSION ORGANIZATIONS, POWER POOLS, OR JOINT TARIFFS. THE PROCEEDING MUST INCLUDE AN INVESTIGATION OF THE POTENTIAL ADVANTAGES AND DISADVANTAGES OF THESE OPTIONS, INCLUDING THE EFFECT ON:

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

(b) WHOLESALE ELECTRIC ENERGY RATES;

(c) TRANSMISSION RATES;

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

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

(f) RESERVE MARGIN REQUIREMENTS;

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

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

(i) OPERATING RESERVE PROCUREMENT; AND

(j) RENEWABLE ENERGY RESOURCE INTERCONNECTION AND INTEGRATION.

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

TARIFF.

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

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

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

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

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

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

(b) APPLICATIONS RELATED TO SECTION 40-2-124;

(c) APPLICATIONS RELATED TO SECTION 40-3.2-104; OR

(d) A PLAN OR APPLICATION FOR TRANSPORTATION ELECTRIFICATION

OR OTHER FORMS OF BENEFICIAL ELECTRIFICATION.

(2) IN A PROCEEDING LISTED IN SUBSECTION (1)(a) OF THIS SECTION, A UTILITY SHALL:

(a) AT A MINIMUM, MODEL AN OPTIMIZATION OF A BASE CASE PORTFOLIO OF RESOURCES USING THE COST OF CARBON DIOXIDE EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4) OF THIS SECTION. THE COST OF CARBON DIOXIDE EMISSIONS MUST APPLY TO THE EVALUATION OF ALL EXISTING ELECTRIC GENERATION RESOURCES AND TO ANY NEW RESOURCES EVALUATED OR PROPOSED AS PART OF THE RESOURCE MODELING. THE COMMISSION MAY REQUIRE A UTILITY TO FILE OR PROPOSE ADDITIONAL BASE CASES. THE UTILITY MAY PROPOSE, AND THE COMMISSION SHALL CONSIDER, ALTERNATIVE OPTIMIZED PORTFOLIOS OF RESOURCES IN ADDITION TO THE BASE CASE, UTILIZING DIFFERENT LEVELS OF COSTS FOR CARBON DIOXIDE.

(b) (I) PRESENT A CALCULATION OF THE NET PRESENT VALUE OF REVENUE REQUIREMENT FOR THE RESOURCES IN EACH OPTIMIZED PORTFOLIO. TO SHOW THE NET PRESENT VALUE OF REVENUE REQUIREMENT THAT WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE PORTFOLIO, IN ADDITION TO PRESENTING THE FULL NET PRESENT VALUE OF REVENUE REQUIREMENT THROUGH A CALCULATION USING THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE UTILITY SHALL ALSO PRESENT THE FULL NET PRESENT VALUE OF REVENUE REQUIREMENT THROUGH A CALCULATION WITHOUT USING THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO SUBSECTION (4) OF THIS SECTION.

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

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

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

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

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

(4) THE COMMISSION SHALL BASE THE COST OF CARBON DIOXIDE EMISSIONS ON THE MOST RECENT ASSESSMENT OF THE SOCIAL COST OF CARBON DIOXIDE DEVELOPED BY THE FEDERAL GOVERNMENT. STARTING IN 2020, THE COMMISSION SHALL USE A SOCIAL COST OF CARBON DIOXIDE OF NOT LESS THAN FORTY-SIX DOLLARS PER SHORT TON. THE COMMISSION SHALL MODIFY THE COST OF CARBON DIOXIDE EMISSIONS BASED ON ESCALATION RATES OF THE 2020 BASE COST BY AN AMOUNT THAT IS EQUAL TO OR GREATER THAN THE CENTRAL VALUE ESCALATION RATES ESTABLISHED IN THE TECHNICAL SUPPORT DOCUMENT. WHEN CALCULATING THE COST OF CARBON DIOXIDE EMISSIONS FOR ANY PROCEEDING LISTED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSION SHALL USE THE SAME DISCOUNT RATE AS THAT USED TO DEVELOP THE FEDERAL SOCIAL COST OF CARBON DIOXIDE, AS SET FORTH IN THE TECHNICAL SUPPORT DOCUMENT. NOTWITHSTANDING THE DISCOUNT RATE USED TO DEVELOP THE SOCIAL COST OF CARBON DIOXIDE VALUE OVER THE PLANNING PERIOD, THE COMMISSION SHALL CONTINUE TO DISCOUNT ANY NET PRESENT VALUE ANALYSIS OF ANY OPTIMIZED RESOURCE PORTFOLIO IN THE ELECTRIC RESOURCE PLANNING PROCESS USING DISCOUNT RATES THAT THE COMMISSION DEEMS APPROPRIATE.

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

(6) AS USED IN THIS SECTION:

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

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

(II) REDUCES NET CARBON DIOXIDE EMISSIONS; OR

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

(b) "TECHNICAL SUPPORT DOCUMENT" MEANS THE 2016 TECHNICAL SUPPORT DOCUMENT OF THE FEDERAL INTERAGENCY WORKING GROUP ON SOCIAL COST OF GREENHOUSE GASES, ENTITLED "TECHNICAL UPDATE OF THE SOCIAL COST OF CARBON FOR REGULATORY IMPACT ANALYSIS - UNDER EXECUTIVE ORDER 12866".

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

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

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

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

**40-6-101. Proceedings - delegation of duties - rules.** (2) (a) ~~Except as otherwise provided in paragraph (b) of this subsection (2);~~

The commission may by order direct that any of its work, business, or functions under any provision of law, except functions vested solely in the commission under this ~~title~~ TITLE 40, be assigned or referred to an individual commissioner or to an administrative law judge to be designated by order for action. ~~thereon, and~~ The commission may by order at any time amend, modify, supplement, or rescind any such assignment or reference. When an individual commissioner or an administrative law judge is unable to act upon any matter so assigned or referred because of absence or other cause, the ~~chairman~~ CHAIR of the commission may designate another commissioner or administrative law judge, as the case may be, to serve temporarily until the commission otherwise orders.

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

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

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

**40-6-109.5. Hearings on applications - time limits for decisions.**

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

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

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

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

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

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



~~such representation.~~

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

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

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

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

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

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

(c) Upon receipt of fingerprints and payment for the costs, the

Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check using records of the Colorado bureau of investigation and the federal bureau of investigation ~~The commission is the authorized agency to receive information regarding the result of a national criminal history record check. The individual whose fingerprints are checked shall pay the actual costs of the state and national fingerprint-based criminal history record check~~ AND SHALL FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK TO THE COMMISSION.

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

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

PART 8  
VEHICLE BOOTING COMPANIES

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

(b) A PERSON MAY APPLY FOR A PERMIT UNDER THIS PART 8 TO THE COMMISSION IN THE FORM AND WITH THE INFORMATION AS THE COMMISSION

REQUIRES. PERMITS ARE VALID FOR ONE YEAR AFTER THE DATE OF ISSUANCE.

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

(3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SECTION 40-10.1-112 (4), THE COMMISSION SHALL ISSUE A PERMIT TO A VEHICLE BOOTING COMPANY UPON COMPLETION OF THE APPLICATION AND THE FILING OF PROOF OF WORKERS' COMPENSATION INSURANCE COVERAGE IN ACCORDANCE WITH THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, AND WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS TITLE 40 AND MAY ATTACH TO THE PERMIT AND TO THE EXERCISE OF THE RIGHTS GRANTED BY THE PERMIT ANY RESTRICTIONS, TERMS, AND CONDITIONS, INCLUDING ALTERING THE RATES AND CHARGES OF THE APPLICANT, AS ARE REASONABLY DEEMED NECESSARY FOR THE PROTECTION OF THE PROPERTY OF THE PUBLIC.

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

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

(II) THE VEHICLE BOOTING COMPANY, ITS OWNERS, PRINCIPALS, OFFICERS, MEMBERS, PARTNERS, AND DIRECTORS, AND ANY OTHER ENTITY OWNED OR OPERATED BY ONE OR MORE OF THOSE OWNERS, PRINCIPALS,

OFFICERS, MEMBERS, PARTNERS, OR DIRECTORS, MAY BE DISQUALIFIED FROM OBTAINING OR RENEWING ANY OPERATING AUTHORITY UNDER THIS TITLE 40 FOR A PERIOD OF FIVE YEARS AFTER THE DATE ON WHICH THE FINE OR CIVIL PENALTY WAS DUE. THE PERIOD OF DISQUALIFICATION PURSUANT TO THIS SUBSECTION (3)(b)(II) IS IN ADDITION TO, AND NOT IN LIEU OF, AND DOES NOT AFFECT, ANY OTHER PENALTY OR PERIOD OF DISQUALIFICATION, INCLUDING THE PERIOD OF DISQUALIFICATION SPECIFIED IN SECTION 40-10.1-112 (4).

(c) A VEHICLE BOOTING COMPANY'S FACILITIES AND VEHICLES ARE SUBJECT TO INSPECTION BY THE COMMISSION AND BY AUTHORIZED PERSONNEL OF THE COLORADO STATE PATROL, WHICH AGENCY SHALL PROMPTLY REPORT TO THE COMMISSION CONCERNING ANY VIOLATIONS REVEALED BY AN INSPECTION.

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

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

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

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

~~The statewide benchmark rate must apply to all nonoptional operator services regardless of whether the services are provided in connection with a local exchange or interexchange telecommunications service. If the commission approves a rate higher than the benchmark rate, and the commission determines that disclosure of the rate to customers is in the public interest, the commission may require the nonoptional operator services provider to orally disclose, to the person responsible for payment of the telephone call, the total charges for the call and that the charges are higher than the benchmark rate. The nonoptional operator services provider shall make the disclosure at no charge to the caller and before the call is connected, allowing the caller to disconnect before incurring any charges. If the commission finds, after notice and opportunity for a hearing, that a nonoptional operator services provider has violated this subsection (5), the commission may, in addition to other enforcement powers as may be authorized in this title, order any regulated telecommunications service provider to block access to the nonoptional operator services provider for all intrastate operator-handled calls. A regulated telecommunications provider that blocks the access of a nonoptional operator services provider in compliance with an order of the commission and incurs attorney fees or costs to defend the action is entitled to recover its costs and attorney fees in each proceeding. The commission shall promulgate rules necessary to implement this subsection (5).~~

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

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

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

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

(u) NONOPTIONAL OPERATOR SERVICES.

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

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

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

**40-15-503.5. Financial assurance.** (1) The commission may require regulated telecommunications service providers to post a bond or provide other security as a condition of obtaining a certificate, registration, or operating authority, whichever instrument or instruments apply. In setting the amount of the bond or security, the commission may consider the following criteria:

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

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

**ARTICLE 41**  
**Colorado Energy Impact Bond Act**

**40-41-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 41 IS THE

"COLORADO ENERGY IMPACT BOND ACT".

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

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

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

(3) "ASSIGNEE" MEANS ANY PERSON TO WHICH AN INTEREST IN CO-EI PROPERTY IS SOLD, ASSIGNED, TRANSFERRED, OR CONVEYED, OTHER THAN AS SECURITY, AND ANY SUCCESSOR TO OR SUBSEQUENT ASSIGNEE OF SUCH A PERSON.

(4) "BONDHOLDER" MEANS ANY HOLDER OR OWNER OF CO-EI BONDS.

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

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

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

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

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

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

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

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



(8) "CO-EI PROPERTY" MEANS:

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

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

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

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

(11) "CUSTOMER" MEANS A PERSON THAT TAKES ELECTRIC DISTRIBUTION OR ELECTRIC TRANSMISSION SERVICE FROM AN ELECTRIC UTILITY OR ITS SUCCESSORS OR ASSIGNEES UNDER COMMISSION-APPROVED RATE SCHEDULES OR PURSUANT TO SPECIAL CONTRACTS FOR CONSUMPTION OF ELECTRICITY IN THE STATE. THE TERM INCLUDES A CUSTOMER'S SUCCESSORS AND ASSIGNEES.

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

(13) "FINANCING COSTS" MEANS, IF APPROVED BY THE COMMISSION IN A FINANCING ORDER, COSTS TO ISSUE, SERVICE, REPAY, OR REFINANCE

CO-EI BONDS, WHETHER INCURRED OR PAID UPON ISSUANCE OF THE CO-EI BONDS OR OVER THE LIFE OF THE CO-EI BONDS, AND INCLUDES:

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

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

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

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

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

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

(14) "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION ISSUED PURSUANT TO SECTION 40-41-106 THAT GRANTS, IN WHOLE OR IN

PART, AN APPLICATION FILED PURSUANT TO SECTION 40-41-103 AND THAT AUTHORIZES THE ISSUANCE OF CO-EI BONDS IN ONE OR MORE SERIES, THE IMPOSITION, CHARGING, AND COLLECTION OF CO-EI CHARGES, AND THE CREATION OF CO-EI PROPERTY.

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

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

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

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

**40-41-103. Financing orders - application requirements.** (1) AN ELECTRIC UTILITY, IN ITS SOLE DISCRETION, MAY APPLY TO THE COMMISSION FOR A FINANCING ORDER AS AUTHORIZED BY THIS SECTION.

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

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

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

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

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

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

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

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

(IV) A PROPOSED METHODOLOGY FOR ALLOCATING THE REVENUE REQUIREMENT FOR THE CO-EI CHARGE AMONG CUSTOMER CLASSES, INCLUDING SPECIAL CONTRACT CUSTOMERS;

(V) A DESCRIPTION OF THE NONBYPASSABLE CO-EI CHARGE REQUIRED TO BE PAID BY CUSTOMERS WITHIN THE ELECTRIC UTILITY'S SERVICE AREA FOR RECOVERY OF CO-EI COSTS AND A PROPOSED ADJUSTMENT MECHANISM REFLECTING THE ALLOCATION METHODOLOGY

REFERRED TO IN SUBSECTION (3)(a)(IV) OF THIS SECTION;

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

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

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

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

(II) PROVIDE DIRECT TESTIMONY SUPPORTING THE APPLICATION.

**40-41-104. Issuance of financing orders.** (1) FOLLOWING NOTICE AND HEARING ON AN APPLICATION FOR A FINANCING ORDER AS REQUIRED BY THE COMMISSION'S RULES, PRACTICE, AND PROCEDURE, THE COMMISSION MAY ISSUE A FINANCING ORDER IF THE COMMISSION FINDS THAT:

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

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

(I) ARE JUST AND REASONABLE;

(II) ARE CONSISTENT WITH THE PUBLIC INTEREST;

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

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

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

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

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

(2) THE FINANCING ORDER MUST:

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

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

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

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

(e) DETERMINE WHETHER THE PROPOSED STRUCTURING, EXPECTED

PRICING, AND FINANCING COSTS OF CO-EI BONDS HAVE A SIGNIFICANT LIKELIHOOD OF LOWERING OVERALL COSTS TO CUSTOMERS OR AVOIDING OR SIGNIFICANTLY MITIGATING RATE IMPACTS TO CUSTOMERS AS COMPARED WITH TRADITIONAL METHODS OF FINANCING AND RECOVERING CO-EI COSTS FROM CUSTOMERS. A FINANCING ORDER MUST PROVIDE DETAILED FINDINGS OF FACT ADDRESSING COST-EFFECTIVENESS AND ASSOCIATED RATE IMPACTS UPON CUSTOMERS AND CUSTOMER CLASSES.

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

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

(h) AUTHORIZE AND APPROVE AN ADJUSTMENT MECHANISM REFLECTING THE ALLOCATION METHODOLOGY SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION;

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

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

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

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

(I) THE TIMING OF ISSUANCE OF THE CO-EI BONDS, INDEPENDENT OF

THE SCHEDULE OF RETIREMENT OF THE ELECTRIC GENERATING FACILITY;

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

(III) THE APPLICANT ELECTRIC UTILITY FILES TO REDUCE ITS RATES AS REQUIRED IN SUBSECTION (4) OF THIS SECTION SIMULTANEOUSLY WITH THE INCEPTION OF THE CO-EI CHARGES AND INDEPENDENTLY OF THE SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC GENERATING FACILITY; AND

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

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

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

(5) IF THE VOTERS OF A LOCAL GOVERNMENT OR SCHOOL DISTRICT HAVE APPROVED PROJECTS THE COSTS OF WHICH ARE EXPECTED TO BE PAID FOR FROM PROPERTY TAXES THAT ARE DIRECTLY IMPACTED BY THE



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

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

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

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

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

(4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, UPON THE REQUEST OF AN ELECTRIC UTILITY OR AT THE REQUEST OF PARTIES IN THE

COMMISSION PROCEEDING, THE COMMISSION MAY COMMENCE A PROCEEDING AND ISSUE A SUBSEQUENT FINANCING ORDER THAT PROVIDES FOR REFINANCING, RETIRING, OR REFUNDING CO-EI BONDS ISSUED PURSUANT TO THE ORIGINAL FINANCING ORDER IF:

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

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

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

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

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

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

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

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

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

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

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

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

**40-41-107. Electric utility customer protection.** (1) IN ADDITION TO ANY OTHER AUTHORITY OF THE COMMISSION:

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

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

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

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

(2) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ISSUANCE OF CO-EI BONDS, THE APPLICANT SHALL FILE WITH THE COMMISSION INFORMATION REGARDING THE ACTUAL UP-FRONT ISSUANCE COSTS OF THE CO-EI BONDS. THE COMMISSION SHALL REVIEW, ON A REASONABLY COMPARABLE BASIS, SUCH INFORMATION TO DETERMINE IF THE ISSUANCE RESULTED IN THE LOWEST OVERALL COSTS THAT WERE REASONABLY CONSISTENT WITH BOTH MARKET CONDITIONS AT THE TIME OF THE PRICING AND THE TERMS OF THE FINANCING ORDER. THE COMMISSION MAY DISALLOW INCREMENTAL UP-FRONT ISSUANCE COSTS IN EXCESS OF THE LOWEST OVERALL COSTS BY REQUIRING THE ELECTRIC UTILITY TO MAKE A CREDIT IN AN AMOUNT EQUAL TO THE EXCESS OF ACTUAL ISSUANCE COSTS INCURRED, AND PAID FOR OUT OF CO-EI BOND PROCEEDS, AND THE LOWEST OVERALL ISSUANCE COSTS AS DETERMINED BY THE COMMISSION. THE COMMISSION MAY NOT MAKE ADJUSTMENTS TO THE CO-EI CHARGES FOR ANY SUCH EXCESS UP-FRONT ISSUANCE COSTS.

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

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

**40-41-108. Judicial review of financing orders.** A FINANCING ORDER IS A FINAL ORDER OF THE COMMISSION. NOTWITHSTANDING SECTION

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

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

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

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

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

(2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND CAUSED CO-EI BONDS TO BE ISSUED MUST DEMONSTRATE IN AN ANNUAL FILING WITH THE COMMISSION THAT CO-EI BOND PROCEEDS ARE APPLIED SOLELY TO THE REPAYMENT OF CO-EI COSTS AND THAT CO-EI REVENUES ARE APPLIED SOLELY TO THE REPAYMENT OF CO-EI BONDS AND OTHER FINANCING COSTS IN ACCORDANCE WITH THE FINANCING ORDER. THE

COST OF SUCH ANNUAL FILING IS A FINANCING COST RECOVERABLE BY THE ELECTRIC UTILITY FROM THE CO-EI CHARGE.

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

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

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

(4) IF AN ELECTRIC UTILITY DEFAULTS ON ANY REQUIRED PAYMENT OF CHARGES ARISING FROM CO-EI PROPERTY DESCRIBED IN A FINANCING ORDER, A COURT, UPON APPLICATION BY AN INTERESTED PARTY AND

WITHOUT LIMITING ANY OTHER REMEDIES AVAILABLE TO THE APPLYING PARTY, SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE REVENUE ARISING FROM THE CO-EI PROPERTY TO THE FINANCING PARTIES. ANY SUCH FINANCING ORDER REMAINS IN FULL FORCE AND EFFECT NOTWITHSTANDING ANY REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE ELECTRIC UTILITY OR ITS SUCCESSORS OR ASSIGNEES.

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

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

**40-41-111. CO-EI bonds - legal investments - not public debt - pledge of state.** (1) BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEY WITHIN THEIR CONTROL IN CO-EI BONDS. PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC FUNDS IN CO-EI BONDS ONLY IF THE CO-EI BONDS SATISFY THE INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24.

(2) CO-EI BONDS ISSUED AS AUTHORIZED BY A FINANCING ORDER ARE NOT DEBT OF OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER

OF THE STATE, ANY AGENCY OF THE STATE, OR ANY COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE. HOLDERS OF CO-EI BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE STATE OR BY ANY COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR INTEREST ON CO-EI BONDS. THE ISSUANCE OF CO-EI BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR A POLITICAL SUBDIVISION OF THE STATE TO LEVY ANY TAX OR MAKE ANY APPROPRIATION FOR PAYMENT OF PRINCIPAL OR INTEREST ON THE CO-EI BONDS.

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

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

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

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

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

**40-41-113. Effect of other laws and judicial decisions.** (1) IF ANY PROVISION OF THIS ARTICLE 41 CONFLICTS WITH ANY OTHER LAW REGARDING THE ATTACHMENT, ASSIGNMENT, PERFECTION, EFFECT OF



PERFECTION, OR PRIORITY OF ANY SECURITY INTEREST IN OR TRANSFER OF CO-EI PROPERTY, THE PROVISION OF THIS ARTICLE 41 GOVERNS TO THE EXTENT OF THE CONFLICT.

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

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

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

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

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

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

(2) THE DESCRIPTION OR INDICATION OF CO-EI PROPERTY IN A TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS SUFFICIENT ONLY IF THE DESCRIPTION OR INDICATION REFERS TO THIS

ARTICLE 41 AND THE FINANCING ORDER CREATING THE CO-EI PROPERTY.

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

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

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

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

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

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

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

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

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

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

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

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

(III) VALUE IS RECEIVED.

(b) UPON THE FILING OF A FINANCING STATEMENT WITH THE SECRETARY OF STATE, A TRANSFER OF AN INTEREST IN CO-EI PROPERTY IS PERFECTED AGAINST ALL THIRD PERSONS, INCLUDING ANY JUDICIAL LIEN OR OTHER LIEN CREDITORS OR ANY CLAIMS OF THE SELLER OR CREDITORS OF THE SELLER, OTHER THAN CREDITORS HOLDING A PRIOR SECURITY INTEREST, OWNERSHIP INTEREST, OR ASSIGNMENT IN THE CO-EI PROPERTY PREVIOUSLY PERFECTED IN ACCORDANCE WITH THIS SUBSECTION (1) OR SECTION 40-41-115. THE SECRETARY OF STATE SHALL MAINTAIN A FINANCING STATEMENT FILED PURSUANT TO THIS SUBSECTION (1)(b) IN THE SAME MANNER IN WHICH THE SECRETARY MAINTAINS AND IN THE SAME RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS FINANCING

STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION (1)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF FINANCING STATEMENTS.

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

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

(b) THE RETENTION BY THE SELLER OF:

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) DOES NOT EXCEED THREE HUNDRED FIFTY MEGAWATTS NAMEPLATE CAPACITY; EXCEPT THAT IT MAY EXCEED THIS CAPACITY IF THE COLORADO ENERGY OFFICE DETERMINES THAT A LARGER SIZE IS NECESSARY TO OBTAIN THE BENEFITS OF FEDERAL COST-SHARING, FINANCIAL GRANTS OR TAX BENEFITS, OR OTHER FINANCIAL OPPORTUNITIES OR ARRANGEMENTS BENEFITTING THE PROJECT, INCLUDING OPPORTUNITIES TO JOINTLY DEVELOP THE PROJECT WITH OTHER ELECTRIC UTILITIES;

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

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

(E) IS LOCATED IN COLORADO.

(III) AS USED IN THIS SUBSECTION (1)(n), "IGCC FACILITY" MEANS AN INTEGRATED GASIFICATION COMBINED CYCLE GENERATION FACILITY THAT CONVERTS COAL TO A GASEOUS FUEL FROM WHICH IMPURITIES ARE

REMOVED PRIOR TO COMBUSTION, USES THE GASEOUS FUEL IN A COMBUSTION TURBINE TO PRODUCE ELECTRICITY, AND CAPTURES THE WASTE HEAT FROM THE COMBUSTION TURBINE TO DRIVE A STEAM TURBINE TO PRODUCE MORE ELECTRICITY. AN IGCC FACILITY MAY ALSO USE NATURAL GAS, IN ADDITION TO GASIFIED COAL, AS A FUEL IN THE COMBUSTION TURBINE.

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

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

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

**SECTION 29. Appropriation.** (1) For the 2019-20 state fiscal year, \$907,566 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) \$675,343 for use by the public utilities commission for personal services, which amount is based on an assumption that the commission will require an additional 7.5 FTE;

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

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

(2) For the 2019-20 state fiscal year, \$186,534 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 1.0 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 2019-20 state fiscal year, \$163,820 is appropriated to the department of public health and environment for use by the air pollution control division. This appropriation is from the general fund. To implement this act, the division may use this appropriation as follows:

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

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

**SECTION 30. Severability.** If any provision of this act or the application thereof to any person, circumstance, or transaction is held by a court of competent jurisdiction to be unconstitutional or invalid, the unconstitutionality or invalidity does not affect the constitutionality or validity of any other provision of this act or its application or validity to any person, circumstance, or transaction, including, without limitation, the irrevocability of a financing order issued pursuant to this act, the validity of the issuance of CO-EI bonds, the imposition of CO-EI charges, the transfer or assignment of CO-EI property, or the collection and recovery of CO-EI charges. To these ends, the general assembly hereby declares that the provisions of this act are intended to be severable and that the general assembly would have enacted this section even if any provision of this act held to be unconstitutional or invalid had not been included in the act.

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

**SECTION 32. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

\_\_\_\_\_  
Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

\_\_\_\_\_  
KC Becker  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

\_\_\_\_\_  
Cindi L. Markwell  
SECRETARY OF  
THE SENATE

\_\_\_\_\_  
Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_  
(Date and Time)

\_\_\_\_\_  
Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO