

HOUSE COMMITTEE OF REFERENCE AMENDMENT
Committee on Energy & Environment.

HB19-1037 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, **add** article 41 to
4 title 40 as follows:

ARTICLE 41

Colorado Energy Impact Assistance Act

ENERGY IMPACT ASSISTANCE BONDS

PART 1

ENERGY IMPACT ASSISTANCE BONDS

40-41-101. Short title. THE SHORT TITLE OF THIS ARTICLE 41 IS THE "COLORADO ENERGY IMPACT ASSISTANCE ACT".

11 **40-41-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
12 HEREBY FINDS AND DECLARIES THAT:

13 (a) COLORADO'S ELECTRIC UTILITIES WILL CONTINUE TO FACE THE

17 (b) THE CLOSURE OF ELECTRIC GENERATING FACILITIES MAY HAVE
18 DIRECT ECONOMIC IMPACTS ON COLORADO COMMUNITIES WHERE THE
19 FACILITIES ARE LOCATED, ELECTRIC GENERATING FACILITY WORKERS, AND
20 COMMUNITIES WHERE FUELS FOR THE FACILITIES ARE PRODUCED;

21 (c) CUSTOMERS OF COLORADO'S ELECTRIC UTILITIES HAVE AN
22 INTEREST IN ENSURING THAT THEIR UTILITIES ARE PROVIDING EFFICIENT
23 AND COST-EFFECTIVE ELECTRIC GENERATION;

24 (d) COLORADO COMMUNITIES AND WORKERS MAY BE DIRECTLY
25 AFFECTED BY THE CLOSURE OF ELECTRIC GENERATING FACILITIES, AND IT
26 IS IN THE BEST INTEREST OF THE STATE TO ENSURE THAT COLORADO'S
27 WORKFORCE IS ABLE TO ADAPT TO THE STATE'S CHANGING ENERGY
28 PORTFOLIO;

29 (e) THERE ARE ALTERNATIVE FINANCING MECHANISMS USED BY
30 MORE THAN TWENTY OTHER STATES SINCE 1997 THAT WILL RESULT IN
31 LOWER COSTS TO ELECTRIC UTILITY CUSTOMERS, AND THE USE OF THESE
32 MECHANISMS CAN ENSURE THAT BOTH THE COSTS OF RETIRING ELECTRIC
33 GENERATING FACILITIES LOCATED IN THE STATE AND TRANSITION COSTS
34 FOR DIRECTLY AFFECTED COLORADO COMMUNITIES AND ELECTRIC
35 GENERATING FACILITY WORKERS CAN BE FINANCED IN A WAY THAT
36 REDUCES THE TOTAL AMOUNT OF COSTS BEING INCLUDED IN CUSTOMER
37 RATES;

38 (f) CUSTOMER COSTS OF ALTERNATIVE FINANCING MECHANISMS
39 CAN BE MINIMIZED BY ACHIEVING THE HIGHEST POSSIBLE CREDIT RATING
40 FROM INDEPENDENT CREDIT RATING AGENCIES, WHICH REQUIRES SPECIAL

1 PROCEDURES AND CONDITIONS INCLUDING:

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

4 (II) THE CREATION OF A PROPERLY STRUCTURED AND
5 IMPLEMENTED ADJUSTMENT MECHANISM TO ADJUST THE CHARGE
6 DEDICATED TO THE REPAYMENT OF THE BONDS TO ENABLE CONSISTENT,
7 ACCURATE, AND TIMELY REMITTANCES TO THE FINANCING ENTITIES FOR
8 THE BENEFIT OF BONDHOLDERS; AND

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

14 (g) TO IMPLEMENT THIS ALTERNATIVE FINANCING MECHANISM, IT
15 IS NECESSARY TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO
16 REVIEW AND APPROVE ONE OR MORE FINANCING ORDERS THAT ADVANCE
17 THESE GOALS IF IT DEEMS SUCH APPROVAL APPROPRIATE AND IN THE
18 INTEREST OF RATEPAYERS.

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

20 (a) IT IS THE POLICY OF THE STATE TO ASSIST COLORADO ELECTRIC
21 GENERATING FACILITY WORKERS WHO ARE DIRECTLY IMPACTED BY THE
22 RETIREMENT OF ELECTRIC GENERATING FACILITIES, THE COMMUNITIES
23 WHERE THE FACILITIES ARE LOCATED, AND THE COMMUNITIES WHERE
24 FUELS FOR THE FACILITIES ARE PRODUCED;

25 (b) IT IS THEREFORE IN THE INTEREST OF THE STATE AND ITS
26 CITIZENS TO ENCOURAGE AND FACILITATE THE USE OF SECURITIZED
27 RATEPAYER-BACKED BONDS AS A METHOD FOR ENABLING ELECTRIC
28 UTILITIES TO LOWER THE COST OF FINANCING THE RETIREMENT OF
29 ELECTRIC GENERATING FACILITIES UNDER CERTAIN CONDITIONS AND TO
30 EMPOWER THE PUBLIC UTILITIES COMMISSION TO REVIEW SUCH
31 SECURITIZATION MECHANISMS TO DETERMINE WHETHER THEY ARE
32 CONSISTENT WITH THE PUBLIC INTEREST AND WORTHY OF APPROVAL;

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

36 (I) TO PROVIDE TRANSITION ASSISTANCE TO COLORADO
37 COMMUNITIES AND ELECTRIC GENERATING FACILITY WORKERS THAT ARE
38 DIRECTLY IMPACTED BY THE RETIREMENT OF ELECTRIC GENERATING
39 FACILITIES;

40 (II) TO LOWER RATES PAID BY ELECTRIC UTILITY CUSTOMERS BY
41 REDUCING FINANCING COSTS OF CERTAIN RETIRED ELECTRIC GENERATING
42 FACILITIES; AND

43 (III) TO MAKE AVAILABLE CAPITAL INVESTMENT FOR MODERNIZED

1 FACILITIES AND SERVICES INCLUDING LEAST-COST ELECTRIC GENERATING
2 FACILITIES AND OTHER SUPPLY-SIDE AND DEMAND-SIDE RESOURCES; AND

3 (d) AN ADDITIONAL PURPOSE OF THIS ACT IS TO CREATE THE
4 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY TO ASSIST WITH THE
5 ADMINISTRATION OF THE PORTION OF SECURITIZED RATEPAYER-BACKED
6 BOND PROCEEDS THAT IS DEDICATED TO TRANSITION ASSISTANCE FOR
7 DIRECTLY IMPACTED COLORADO COMMUNITIES AND ELECTRIC
8 GENERATING FACILITY WORKERS.

9 **40-41-103. Definitions.** AS USED IN THIS ARTICLE 41 AND FOR USE
10 BY THE COMMISSION, AND IN THE COURSE OF THE REVIEW BY
11 INDEPENDENT CREDIT RATING AGENCIES THAT IS NECESSARY TO ACHIEVE
12 THE HIGHEST POSSIBLE BOND RATINGS, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

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

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

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

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

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

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

32 (7) "CO-EIA BONDS" MEANS LOW-COST CORPORATE SECURITIES,
33 SUCH AS SENIOR SECURED BONDS, DEBENTURES, NOTES, CERTIFICATES OF
34 PARTICIPATION, CERTIFICATES OF BENEFICIAL INTEREST, CERTIFICATES OF
35 OWNERSHIP, OR OTHER EVIDENCES OF INDEBTEDNESS OR OWNERSHIP THAT
36 HAVE A SCHEDULED MATURITY OF NO LONGER THAN THIRTY YEARS AND
37 A FINAL LEGAL MATURITY DATE THAT IS NOT LATER THAN THIRTY-TWO
38 YEARS FROM THE ISSUE DATE, THAT ARE RATED AA OR AA2 OR BETTER BY
39 AT LEAST ONE MAJOR INDEPENDENT CREDIT RATING AGENCY AT THE TIME
40 OF ISSUANCE, AND THAT ARE ISSUED BY AN ELECTRIC UTILITY OR AN
41 ASSIGNEE PURSUANT TO A FINANCING ORDER, THE PROCEEDS OF WHICH
42 ARE USED TO RECOVER, FINANCE, OR REFINANCE COMMISSION-APPROVED
43 CO-EIA COSTS AND FINANCING COSTS, INCLUDING ASSISTANCE TO

1 AFFECTED WORKERS AND COMMUNITIES, AND THAT ARE SECURED BY OR
2 PAYABLE FROM CO-EIA PROPERTY. IF CERTIFICATES OF PARTICIPATION OR
3 OWNERSHIP ARE ISSUED, REFERENCES IN THIS SECTION TO PRINCIPAL,
4 INTEREST, OR PREMIUM REFER TO COMPARABLE AMOUNTS UNDER THOSE
5 CERTIFICATES.

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

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

16 (I) (A) AT THE OPTION OF AND UPON PETITION BY AN ELECTRIC
17 UTILITY, AND AS APPROVED BY THE COMMISSION PURSUANT TO SECTION
18 40-41-105, THE PRETAX COSTS THAT THE ELECTRIC UTILITY HAS INCURRED
19 OR WILL INCUR THAT ARE CAUSED BY, ASSOCIATED WITH, OR REMAIN AS
20 A RESULT OF THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY
21 LOCATED IN THE STATE.

22 (B) AS USED IN THIS SUBSECTION (9), "PRETAX COSTS", IF
23 APPROVED BY THE COMMISSION, INCLUDE, BUT ARE NOT LIMITED TO, THE
24 UNRECOVERED CAPITALIZED COST OF A RETIRED ELECTRIC GENERATING
25 FACILITY, COSTS OF DECOMMISSIONING AND RESTORING THE SITE OF THE
26 ELECTRIC GENERATING FACILITY, AND OTHER APPLICABLE CAPITAL AND
27 OPERATING COSTS, ACCRUED CARRYING CHARGES, DEFERRED EXPENSES,
28 REDUCTIONS FOR APPLICABLE INSURANCE AND SALVAGE PROCEEDS AND
29 THE COSTS OF RETIRING ANY EXISTING INDEBTEDNESS, FEES, COSTS, AND
30 EXPENSES TO MODIFY EXISTING DEBT AGREEMENTS OR FOR WAIVERS OR
31 CONSENTS RELATED TO EXISTING DEBT AGREEMENTS.

32 (II) AMOUNTS REQUIRED TO BE TRANSFERRED TO THE AUTHORITY
33 FOR TRANSITION ASSISTANCE AND THE PAYMENT OF THE AUTHORITY'S
34 REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS
35 REQUIRED BY A FINANCING ORDER.

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

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

(10) "CO-EIA PROPERTY" MEANS:

8 (b) ALL REVENUE, COLLECTIONS, CLAIMS, RIGHTS TO PAYMENTS,
9 PAYMENTS, MONEY, OR PROCEEDS ARISING FROM THE RIGHTS AND
10 INTERESTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION,
11 REGARDLESS OF WHETHER SUCH REVENUE, COLLECTIONS, CLAIMS, RIGHTS
12 TO PAYMENT, PAYMENTS, MONEY, OR PROCEEDS ARE IMPOSED, BILLED,
13 RECEIVED, COLLECTED, OR MAINTAINED TOGETHER WITH OR COMMINGLED
14 WITH OTHER REVENUE, COLLECTIONS, RIGHTS TO PAYMENT, PAYMENTS,
15 MONEY, OR PROCEEDS.

16 (11) "CO-EIA REVENUE" MEANS ALL REVENUE, RECEIPTS,
17 COLLECTIONS, PAYMENTS, MONEY, CLAIMS, OR OTHER PROCEEDS ARISING
18 FROM CO-EIA PROPERTY.

19 (12) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
20 THE STATE OF COLORADO.

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

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

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

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

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

42 (c) ANY OTHER DEMONSTRABLE COSTS RELATED TO ISSUING,
43 SUPPORTING, REPAYING, REFUNDING, AND SERVICING CO-EIA BONDS,

1 INCLUDING, BUT NOT LIMITED TO, SERVICING FEES, ACCOUNTING AND
2 AUDITING FEES, TRUSTEE FEES, LEGAL FEES, CONSULTING FEES, FINANCIAL
3 ADVISOR FEES, ADMINISTRATIVE FEES, PLACEMENT AND UNDERWRITING
4 FEES, CAPITALIZED INTEREST, RATING AGENCY FEES, STOCK EXCHANGE
5 LISTING AND COMPLIANCE FEES, SECURITY REGISTRATION FEES, FILING
6 FEES, INFORMATION TECHNOLOGY PROGRAMMING COSTS, AND ANY OTHER
7 DEMONSTRABLE COSTS NECESSARY TO OTHERWISE ENSURE AND
8 GUARANTEE THE TIMELY PAYMENT OF CO-EIA BONDS OR OTHER
9 AMOUNTS OR CHARGES PAYABLE IN CONNECTION WITH CO-EIA BONDS;

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

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

16 (f) ANY COSTS INCURRED BY AN ELECTRIC UTILITY TO PAY THE
17 COMMISSION'S COSTS OF ENGAGING SPECIALIZED COUNSEL AND EXPERT
18 CONSULTANTS EXPERIENCED IN SECURITIZED ELECTRIC UTILITY
19 RATEPAYER-BACKED BOND FINANCING SIMILAR TO CO-EIA BONDS AS
20 REQUIRED BY SECTION 40-41-108 (4).

21 (16) "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION
22 ISSUED PURSUANT TO SECTION 40-41-105 THAT GRANTS, IN WHOLE OR IN
23 PART, AN APPLICATION FILED PURSUANT TO SECTION 40-41-104 AND THAT
24 AUTHORIZES THE ISSUANCE OF CO-EIA BONDS IN ONE OR MORE SERIES,
25 THE IMPOSITION, CHARGING, AND COLLECTION OF CO-EIA CHARGES, AND
26 THE CREATION OF CO-EIA PROPERTY. IN A FINANCING ORDER, THE
27 COMMISSION MAY INCLUDE ANY CONDITIONS THAT ARE NECESSARY TO
28 PROMOTE THE PUBLIC INTEREST AND MAY GRANT RELIEF THAT IS
29 DIFFERENT FROM THAT WHICH WAS REQUESTED IN THE APPLICATION SO
30 LONG AS THE RELIEF IS WITHIN THE SCOPE OF THE MATTERS ADDRESSED IN
31 THE COMMISSION'S NOTICE OF THE APPLICATION.

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

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

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

42 (a) ALLEXISTING AND FUTURE CUSTOMERS RECEIVING WHOLESALE
43 OR RETAIL ELECTRICITY FOR CONSUMPTION WITHIN THE STATE USING

1 UTILITY TRANSMISSION OR DISTRIBUTION FACILITIES FROM THE ELECTRIC
2 UTILITY OR ITS SUCCESSORS OR ASSIGNEES UNDER COMMISSION-APPROVED
3 RATE SCHEDULES OR UNDER SPECIAL CONTRACTS, EVEN IF A CUSTOMER
4 ELECTS TO PURCHASE ELECTRICITY FROM AN ELECTRIC SUPPLIER OTHER
5 THAN THE UTILITY; AND

6 (b) ANY PERSON LOCATED WITHIN THE ELECTRIC UTILITY SERVICE
7 AREA THAT MAY SUBSEQUENTLY RECEIVE WHOLESALE OR RETAIL
8 ELECTRICITY FOR CONSUMPTION WITHIN THE STATE USING UTILITY
9 TRANSMISSION OR DISTRIBUTION FACILITIES FROM ANOTHER ELECTRIC
10 UTILITY OPERATING IN THE SAME SERVICE AREA.

11 (20) "SUCCESSOR" MEANS, WITH RESPECT TO ANY LEGAL ENTITY,
12 ANOTHER LEGAL ENTITY THAT SUCCEEDS BY OPERATION OF LAW TO THE
13 RIGHTS AND OBLIGATIONS OF THE FIRST LEGAL ENTITY PURSUANT TO ANY
14 BANKRUPTCY, REORGANIZATION, RESTRUCTURING, OTHER INSOLVENCY
15 PROCEEDING, MERGER, ACQUISITION, CONSOLIDATION, OR SALE OR
16 TRANSFER OF ASSETS, WHETHER ANY OF THESE OCCUR DUE TO A
17 RESTRUCTURING OF THE ELECTRIC POWER INDUSTRY OR OTHERWISE.

18 (21) "TRANSITION ASSISTANCE" MEANS ASSISTANCE PROVIDED BY
19 OR DIRECTED BY THE AUTHORITY USING CO-EIA BOND PROCEEDS
20 TRANSFERRED BY AN ELECTRIC UTILITY TO THE AUTHORITY PURSUANT TO
21 THE TERMS OF A FINANCING ORDER TO ASSIST COLORADO COMMUNITIES
22 THAT ARE DIRECTLY IMPACTED BY THE RETIREMENT OF AN ELECTRIC
23 GENERATING FACILITY AND MAY INCLUDE, WITHOUT LIMITATION:

24 (a) PAYMENT OF RETRAINING COSTS, INCLUDING COSTS OF ANY
25 APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-303 (2), OR
26 SKILLED WORKER TRAINING PROGRAM, AS DEFINED IN SECTION 8-83-303
27 (10), FOR DIRECTLY DISPLACED ELECTRIC GENERATING FACILITY
28 WORKERS;

29 (b) FINANCIAL ASSISTANCE FOR DIRECTLY DISPLACED ELECTRIC
30 GENERATING FACILITY WORKERS;

31 (c) FOR A PERIOD OF NO MORE THAN FIVE YEARS, COMPENSATION
32 TO LOCAL GOVERNMENTS FOR LOSSES OF PROPERTY TAX REVENUE
33 RESULTING DIRECTLY FROM THE RETIREMENT OF THE ELECTRIC
34 GENERATING FACILITY, WHICH COMPENSATION MAY BE REDUCED
35 ANNUALLY DURING THE PERIOD DURING WHICH IT IS PROVIDED;

36 (d) PAYMENT OF RETRAINING COSTS, INCLUDING COSTS OF ANY
37 APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-303 (2), OR
38 SKILLED WORKER TRAINING PROGRAM, AS DEFINED IN SECTION 8-83-303
39 (10), AND PROVISION OF FINANCIAL ASSISTANCE, INCLUDING WAGE
40 SUPPORT OR SUPPLEMENTAL RETIREMENT SUPPORT, FOR COLORADO
41 WORKERS AND ASSISTANCE TO LOCAL GOVERNMENTS WITH LOSSES OF TAX
42 REVENUE DIRECTLY RELATED TO PRODUCTION OF FUEL PREVIOUSLY USED
43 IN THE RETIRED FACILITIES; AND

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

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

10 (2) (a) AN INVESTOR-OWNED OR OTHER REGULATED ELECTRIC
11 UTILITY MAY FILE AN APPLICATION FOR APPROVAL TO ISSUE CO-EIA
12 BONDS IN ONE OR MORE SERIES, IMPOSE, CHARGE, AND COLLECT CO-EIA
13 CHARGES, AND CREATE CO-EIA PROPERTY RELATED TO THE RETIREMENT
14 OF AN ELECTRIC GENERATING FACILITY IN COLORADO THAT HAS
15 PREVIOUSLY BEEN APPROVED BY THE COMMISSION.

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

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

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

29 (a) AN ESTIMATED SCHEDULE FOR THE RETIREMENT;
30 (b) A SPECIFICATION OF THE EFFECTS OF THE PROPOSED CO-EIA
31 BOND FINANCING ON THE RETIREMENT;

32 (c) A PROPOSED METHODOLOGY FOR ALLOCATING THE REVENUE
33 REQUIREMENT FOR THE CO-EIA CHARGE AMONG CUSTOMER CLASSES:

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

37 (e) AN ESTIMATE OF THE NET PRESENT VALUE OF ELECTRIC UTILITY
38 CUSTOMER SAVINGS EXPECTED TO RESULT IF THE FINANCING ORDER IS
39 ISSUED AS DETERMINED BY A NET PRESENT VALUE COMPARISON BETWEEN
40 THE COSTS TO CUSTOMERS THAT ARE EXPECTED TO RESULT FROM THE
41 FINANCING OF THE UNDEPRECIATED BALANCES OF ELECTRIC GENERATING
42 FACILITIES WITH CO-EIA BONDS AND THE COSTS THAT WOULD RESULT
43 FROM THE APPLICATION OF TRADITIONAL ELECTRIC UTILITY FINANCING

1 MECHANISMS TO THE SAME UNDEPRECIATED BALANCES; AND
2 (f) ONE OR MORE ALTERNATIVE FINANCING SCENARIOS IN
3 ADDITION TO THE PREFERRED SCENARIO CONTAINED IN THE APPLICATION.

4 **40-41-105. Issuance of financing orders.** (1) FOLLOWING
5 NOTICE AND HEARING ON AN APPLICATION FOR A FINANCING ORDER AS
6 REQUIRED BY THE COMMISSION'S RULES, PRACTICE, AND PROCEDURE, THE
7 COMMISSION MAY ISSUE A FINANCING ORDER IF THE COMMISSION FINDS
8 THAT:

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

12 (b) THE PROPOSED ISSUANCE OF CO-EIA BONDS AND THE
13 IMPOSITION AND COLLECTION OF CO-EIA CHARGES:

14 (I) ARE JUST AND REASONABLE;

15 (II) ARE CONSISTENT WITH THE PUBLIC INTEREST;

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

19 (IV) WILL PROVIDE SUBSTANTIAL, TANGIBLE, AND QUANTIFIABLE
20 BENEFITS TO CUSTOMERS THAT ARE GREATER THAN THE BENEFITS THAT
21 WOULD HAVE BEEN ACHIEVED ABSENT THE ISSUANCE OF CO-EIA BONDS;
22 AND

23 (c) THE PROPOSED STRUCTURING, MARKETING, AND PRICING OF
24 THE CO-EIA BONDS WILL:

25 (I) SIGNIFICANTLY LOWER OVERALL COSTS TO CUSTOMERS OR
26 SIGNIFICANTLY MITIGATE RATE IMPACTS TO CUSTOMERS RELATIVE TO
27 TRADITIONAL METHODS OF FINANCING; AND

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

32 (2) THE FINANCING ORDER MUST:

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

36 (b) NOTWITHSTANDING THE LIMITATION ON THE USE OF
37 RATEPAYER FUNDS SET FORTH IN SECTION 40-3-114, PROVIDE THAT AN
38 AMOUNT OF CO-EIA BOND PROCEEDS EQUAL TO FIFTEEN PERCENT OF THE
39 NET PRESENT VALUE OF ELECTRIC UTILITY CUSTOMER SAVINGS ESTIMATED
40 PURSUANT TO SECTION 40-41-104 (3)(e) BE TRANSFERRED TO THE
41 AUTHORITY BY THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER
42 APPLIES FOR USE BY THE AUTHORITY IN PROVIDING TRANSITION
43 ASSISTANCE AS REQUIRED BY SECTION 40-41-202 AND PAYING ITS

1 REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS
2 AUTHORIZED BY SECTION 40-41-201 (3)(f);

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

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

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

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

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

28 (h) INCLUDE ANY ADDITIONAL FINDINGS OR CONCLUSIONS DEEMED
29 APPROPRIATE BY THE COMMISSION;

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

34 (j) SPECIFY THE TIMING OF ACTIONS REQUIRED BY THE ORDER SO
35 THAT:

36 (I) THE CO-EIA BONDS ARE ISSUED AS SOON AS FEASIBLE
37 FOLLOWING THE ISSUANCE OF THE FINANCING ORDER, INDEPENDENT OF
38 THE SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
39 GENERATING FACILITY;

40 (II) THE ENERGY ASSISTANCE FUNDS ARE TRANSFERRED TO THE
41 AUTHORITY AS SOON AS FEASIBLE, BUT NO LATER THAN THE EARLIER OF
42 THE DATE ON WHICH THE ELECTRIC GENERATING FACILITY CEASES
43 OPERATION; AND

44 (III) THE APPLICANT ELECTRIC UTILITY FILES TO REDUCE ITS RATES

1 AS REQUIRED IN SUBSECTION (4) OF THIS SECTION SIMULTANEOUSLY WITH
2 THE INCEPTION OF THE CO-EIA CHARGES AND INDEPENDENTLY OF THE
3 SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
4 GENERATING FACILITY; AND

5 (k) SPECIFY A FUTURE RATEMAKING PROCESS TO RECONCILE ANY
6 DIFFERENCE BETWEEN THE PROJECTED PRETAX COSTS INCLUDED IN THE
7 AMOUNT FINANCED BY CO-EIA BONDS AND THE FINAL ACTUAL PRETAX
8 COSTS INCURRED BY THE ELECTRIC UTILITY IN RETIRING THE ELECTRIC
9 GENERATING FACILITY. THE RECONCILIATION MAY AFFECT THE ELECTRIC
10 UTILITY'S BASE RATES OR ANY RIDER ADOPTED PURSUANT TO SUBSECTION
11 (4) OF THIS SECTION, BUT SHALL NOT AFFECT THE AMOUNT OF THE BONDS
12 OR THE ASSOCIATED CO-EIA CHARGES PAID BY CUSTOMERS.

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

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

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

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

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

40 (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, UPON ITS
41 OWN MOTION OR AT THE REQUEST OF AN ELECTRIC UTILITY OR ANY OTHER
42 PERSON, THE COMMISSION MAY COMMENCE A PROCEEDING AND ISSUE A
43 SUBSEQUENT FINANCING ORDER THAT PROVIDES FOR REFINANCING,
44 RETIRING, OR REFUNDING CO-EIA BONDS ISSUED PURSUANT TO THE

1 ORIGINAL FINANCING ORDER IF:

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

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

9 **40-41-107. Effect on commission jurisdiction.** (1) EXCEPT AS
10 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, IF THE
11 COMMISSION ISSUES A FINANCING ORDER TO AN ELECTRIC UTILITY, THE
12 COMMISSION SHALL NOT, IN EXERCISING ITS POWERS AND CARRYING OUT
13 ITS DUTIES PURSUANT TO THIS ARTICLE 41:

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

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

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

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

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

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

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

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

39 (3) THE COMMISSION MAY NOT REFUSE TO ALLOW THE RECOVERY
40 OF ANY COSTS ASSOCIATED WITH THE RETIREMENT OF ELECTRIC
41 GENERATING FACILITIES BY AN ELECTRIC UTILITY SOLELY BECAUSE THE
42 ELECTRIC UTILITY HAS ELECTED TO FINANCE THOSE ACTIVITIES THROUGH
43 A FINANCING MECHANISM OTHER THAN CO-EIA BONDS.

44 **40-41-108. Electric utility customer protection - legislative**

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

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

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

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

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

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

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

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

37 (3) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ISSUANCE OF
38 CO-EIA BONDS, THE APPLICANT ELECTRIC UTILITY SHALL FILE WITH THE
39 COMMISSION INFORMATION REGARDING THE ACTUAL UP-FRONT AND
40 ONGOING FINANCING COSTS OF THE CO-EIA BONDS. THE COMMISSION
41 SHALL REVIEW THE PRUDENCE OF THE ELECTRIC UTILITY'S ACTION TO
42 DETERMINE WHETHER THE COSTS RESULTED IN THE LOWEST OVERALL
43 COSTS THAT WERE REASONABLY CONSISTENT WITH BOTH MARKET
44 CONDITIONS AT THE TIME OF THE ISSUANCE AND THE TERMS OF THE

1 FINANCING ORDER. IF THE COMMISSION DETERMINES THAT THE ELECTRIC
2 UTILITY'S ACTIONS WERE NOT PRUDENT OR WERE INCONSISTENT WITH THE
3 FINANCING ORDER, THE COMMISSION MAY APPLY ANY REMEDIES THAT ARE
4 AVAILABLE TO IT UNDER ARTICLE 7 OF THIS TITLE 40; EXCEPT THAT THE
5 COMMISSION SHALL NOT APPLY ANY REMEDY THAT HAS THE EFFECT,
6 DIRECTLY OR INDIRECTLY, OF IMPAIRING THE SECURITY FOR THE CO-EIA
7 BONDS.

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

22 (5) IF AN ELECTRIC UTILITY'S APPLICATION FOR A FINANCING
23 ORDER IS DENIED OR WITHDRAWN OR FOR ANY REASON NO CO-EIA BONDS
24 ARE ISSUED, ANY COSTS OF RETAINING EXPERT CONSULTANTS AND
25 COUNSEL ON BEHALF OF THE COMMISSION, AS REQUIRED BY SUBSECTION
26 (4) OF THIS SECTION, SHALL BE PAID BY THE APPLICANT ELECTRIC UTILITY
27 AND SHALL BE CONSIDERED BY THE COMMISSION AS A PRUDENT DEFERRED
28 EXPENSE FOR RECOVERY IN THE ELECTRIC UTILITY'S FUTURE RATES.

29 **40-41-109. Judicial review of financing orders.** A FINANCING
30 ORDER IS A FINAL ORDER OF THE COMMISSION. NOTWITHSTANDING
31 SECTION 40-6-115 (5) SPECIFYING PROPER VENUE FOR PETITION FILINGS,
32 A PARTY AGGRIEVED BY THE ISSUANCE OF A FINANCING ORDER MAY
33 PETITION FOR SUSPENSION AND REVIEW OF THE FINANCING ORDER ONLY IN
34 THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER. IN THE CASE
35 OF ANY PETITION FOR SUSPENSION AND REVIEW, THE COURT SHALL
36 PROCEED TO HEAR AND DETERMINE THE ACTION AS EXPEDITIOUSLY AS
37 PRACTICABLE AND SHALL GIVE THE ACTION PRECEDENCE OVER OTHER
38 MATTERS NOT ACCORDED SIMILAR PRECEDENCE BY LAW.

39 **40-41-110. Electric utilities - duties.** (1) THE ELECTRIC BILLS OF
40 AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND
41 CAUSED CO-EIA BONDS TO BE ISSUED:

42 (a) MUST EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES
43 ON THE BILL REPRESENTS CO-EIA CHARGES APPROVED IN A FINANCING
44 ORDER ISSUED TO THE ELECTRIC UTILITY AND, IF THE CO-EIA PROPERTY

1 HAS BEEN TRANSFERRED TO AN ASSIGNEE, MUST INCLUDE A STATEMENT
2 THAT THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO CO-EIA CHARGES
3 AND THAT THE ELECTRIC UTILITY OR OTHER ENTITY, IF APPLICABLE, IS
4 ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE;

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

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

16 (2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER
17 AND CAUSED CO-EIA BONDS TO BE ISSUED MUST DEMONSTRATE IN AN
18 ANNUAL FILING WITH THE COMMISSION THAT CO-EIA REVENUES ARE
19 APPLIED SOLELY TO THE REPAYMENT OF CO-EIA BONDS AND OTHER
20 FINANCING COSTS.

21 **40-41-111. CO-EIA property.** (1) CO-EIA PROPERTY THAT IS
22 DESCRIBED IN A FINANCING ORDER CONSTITUTES AN EXISTING PRESENT
23 PROPERTY RIGHT OR INTEREST IN AN EXISTING PRESENT PROPERTY RIGHT
24 EVEN THOUGH THE IMPOSITION AND COLLECTION OF CO-EIA CHARGES
25 DEPENDS ON THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER IS
26 ISSUED PERFORMING ITS SERVICING FUNCTIONS RELATING TO THE
27 COLLECTION OF CO-EIA CHARGES AND ON FUTURE ELECTRICITY
28 CONSUMPTION. THE PROPERTY RIGHT OR INTEREST EXISTS REGARDLESS OF
29 WHETHER THE REVENUES OR PROCEEDS ARISING FROM THE CO-EIA
30 PROPERTY HAVE BEEN BILLED, HAVE ACCRUED, OR HAVE BEEN COLLECTED
31 AND NOTWITHSTANDING THE FACT THAT THE VALUE OR AMOUNT OF THE
32 PROPERTY RIGHT OR INTEREST IS DEPENDENT ON THE FUTURE PROVISION
33 OF SERVICE TO CUSTOMERS BY THE ELECTRIC UTILITY OR A SUCCESSOR OR
34 ASSIGNEE OF THE ELECTRIC UTILITY.

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

39 (3) ALL OR ANY PORTION OF CO-EIA PROPERTY DESCRIBED IN A
40 FINANCING ORDER ISSUED TO AN ELECTRIC UTILITY MAY BE TRANSFERRED,
41 SOLD, CONVEYED, OR ASSIGNED TO A SUCCESSOR OR ASSIGNEE THAT IS
42 WHOLLY OWNED, DIRECTLY OR INDIRECTLY, BY THE ELECTRIC UTILITY
43 AND IS CREATED FOR THE LIMITED PURPOSE OF ACQUIRING, OWNING, OR
44 ADMINISTERING CO-EIA PROPERTY OR ISSUING CO-EIA BONDS AS

1 AUTHORIZED BY THE FINANCING ORDER. ALL OR ANY PORTION OF CO-EIA
2 PROPERTY MAY BE PLEDGED TO SECURE CO-EIA BONDS ISSUED PURSUANT
3 TO A FINANCING ORDER, AMOUNTS PAYABLE TO FINANCING PARTIES AND
4 TO COUNTERPARTIES UNDER ANY ANCILLARY AGREEMENTS, AND OTHER
5 FINANCING COSTS. EACH TRANSFER, SALE, CONVEYANCE, ASSIGNMENT, OR
6 PLEDGE BY AN ELECTRIC UTILITY OR AN AFFILIATE OF AN ELECTRIC
7 UTILITY IS A TRANSACTION IN THE NORMAL COURSE OF BUSINESS FOR
8 PURPOSES OF SECTION 40-5-105 (1)(a).

9 (4) IF AN ELECTRIC UTILITY DEFAULTS ON ANY REQUIRED PAYMENT
10 OF CHARGES ARISING FROM CO-EIA PROPERTY DESCRIBED IN A FINANCING
11 ORDER, A COURT, UPON APPLICATION BY AN INTERESTED PARTY AND
12 WITHOUT LIMITING ANY OTHER REMEDIES AVAILABLE TO THE APPLYING
13 PARTY, SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE
14 REVENUE ARISING FROM THE CO-EIA PROPERTY TO THE FINANCING
15 PARTIES. ANY SUCH FINANCING ORDER REMAINS IN FULL FORCE AND
16 EFFECT NOTWITHSTANDING ANY REORGANIZATION, BANKRUPTCY, OR
17 OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE ELECTRIC
18 UTILITY OR ITS SUCCESSORS OR ASSIGNEES.

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

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

40 **40-41-112. CO-EIA bonds - legal investments - not public debt**
41 **- pledge of state.** (1) BANKS, TRUST COMPANIES, SAVINGS AND LOAN
42 ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS,
43 GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST
44 ANY MONEY WITHIN THEIR CONTROL IN CO-EIA BONDS. PUBLIC ENTITIES,

1 AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC FUNDS IN
2 CO-EIA BONDS ONLY IF THE CO-EIA BONDS SATISFY THE INVESTMENT
3 REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24.

4 (2) CO-EIA BONDS ISSUED AS AUTHORIZED BY A FINANCING
5 ORDER ARE NOT DEBT OF OR A PLEDGE OF THE FAITH AND CREDIT OR
6 TAXING POWER OF THE STATE, ANY AGENCY OF THE STATE, OR ANY
7 COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE.
8 HOLDERS OF CO-EIA BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY
9 THE STATE OR BY ANY COUNTY, MUNICIPALITY, OR OTHER POLITICAL
10 SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR
11 INTEREST ON CO-EIA BONDS. THE ISSUANCE OF CO-EIA BONDS DOES NOT
12 DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR A
13 POLITICAL SUBDIVISION OF THE STATE TO LEVY ANY TAX OR MAKE ANY
14 APPROPRIATION FOR PAYMENT OF PRINCIPAL OR INTEREST ON THE CO-EIA
15 BONDS.

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

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

21 (II) REDUCE, ALTER, OR IMPAIR CO-EIA CHARGES THAT ARE
22 IMPOSED, COLLECTED, AND REMITTED FOR THE BENEFIT OF HOLDERS OF
23 CO-EIA BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES, UNTIL ANY
24 PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM PAYABLE ON CO-EIA
25 BONDS, ALL FINANCING COSTS, AND ALL AMOUNTS TO BE PAID TO AN
26 ASSIGNEE OR FINANCING PARTY UNDER AN ANCILLARY AGREEMENT ARE
27 PAID IN FULL.

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

32 **40-41-113. Assignee or financing party not automatically
33 subject to commission regulation.** AN ELECTRIC UTILITY, ASSIGNEE, OR
34 FINANCING PARTY THAT IS NOT ALREADY REGULATED BY THE COMMISSION
35 DOES NOT BECOME SUBJECT TO COMMISSION REGULATION SOLELY AS A
36 RESULT OF ENGAGING IN ANY TRANSACTION AUTHORIZED BY OR
37 DESCRIBED IN THIS ARTICLE 41.

38 **40-41-114. Effect of other laws and judicial decisions.** (1) IF
39 ANY PROVISION OF THIS ARTICLE 41 CONFLICTS WITH ANY OTHER LAW
40 REGARDING THE ATTACHMENT, ASSIGNMENT, PERFECTION, EFFECT OF
41 PERFECTION, OR PRIORITY OF ANY SECURITY INTEREST IN OR TRANSFER OF
42 CO-EIA PROPERTY, THE PROVISION OF THIS ARTICLE 41 GOVERNS TO THE
43 EXTENT OF THE CONFLICT.

44 (2) EFFECTIVE ON THE DATE THAT CO-EIA BONDS ARE FIRST

1 ISSUED, IF ANY PROVISION OF THIS ARTICLE 41 IS HELD TO BE INVALID OR
2 IS INVALIDATED, SUPERSEDED, REPLACED, REPEALED, OR EXPIRES, THAT
3 OCCURRENCE DOES NOT AFFECT ANY ACTION ALLOWED UNDER THIS
4 ARTICLE 41 THAT WAS LAWFULLY TAKEN BY THE COMMISSION, AN
5 ELECTRIC UTILITY, AN ASSIGNEE, A COLLECTION AGENT, A FINANCING
6 PARTY, A BONDHOLDER, OR A PARTY TO AN ANCILLARY AGREEMENT
7 BEFORE THE OCCURRENCE, AND ANY SUCH ACTION REMAINS IN FULL FORCE
8 AND EFFECT.

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

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

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

17 **40-41-115. Choice of law.** THE LAWS OF THE STATE GOVERN THE
18 VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY, AND
19 EXERCISE OF REMEDIES WITH RESPECT TO THE TRANSFER OF AN INTEREST
20 OR RIGHT OR CREATION OF A SECURITY INTEREST IN ANY CO-EIA
21 PROPERTY, CO-EIA CHARGE, OR FINANCING ORDER.

22 **40-41-116. Security interests in CO-EIA property.** (1) THE
23 CREATION, PERFECTION, AND ENFORCEMENT OF ANY SECURITY INTEREST
24 IN CO-EIA PROPERTY TO SECURE THE REPAYMENT OF THE PRINCIPAL OF
25 AND INTEREST ON CO-EIA BONDS, AMOUNTS PAYABLE UNDER ANY
26 ANCILLARY AGREEMENT, AND OTHER FINANCING COSTS ARE GOVERNED BY
27 THIS SECTION AND NOT BY THE "UNIFORM COMMERCIAL CODE", TITLE 4.

28 (2) THE DESCRIPTION OR INDICATION OF CO-EIA PROPERTY IN A
29 TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS
30 SUFFICIENT ONLY IF THE DESCRIPTION OR INDICATION REFERS TO THIS
31 ARTICLE 41 AND THE FINANCING ORDER CREATING THE CO-EIA
32 PROPERTY.

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

36 (I) THE FINANCING ORDER THAT DESCRIBES THE CO-EIA
37 PROPERTY IS ISSUED;

38 (II) A SECURITY AGREEMENT IS EXECUTED AND DELIVERED; AND
39 (III) VALUE IS RECEIVED FOR THE CO-EIA BONDS.

40 (b) ONCE A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED
41 UNDER SUBSECTION (3)(a) OF THIS SECTION, THE SECURITY INTEREST
42 ATTACHES WITHOUT ANY PHYSICAL DELIVERY OF COLLATERAL OR ANY
43 OTHER ACT. THE LIEN OF THE SECURITY INTEREST IS VALID, BINDING, AND
44 PERFECTED AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT,

1 CONTRACT OR OTHERWISE AGAINST THE PERSON GRANTING THE SECURITY
2 INTEREST, REGARDLESS OF WHETHER SUCH PARTIES HAVE NOTICE OF THE
3 LIEN, UPON THE FILING OF A FINANCING STATEMENT WITH THE SECRETARY
4 OF STATE. THE SECRETARY OF STATE SHALL MAINTAIN A FINANCING
5 STATEMENT FILED PURSUANT TO THIS SUBSECTION (3)(b) IN THE SAME
6 MANNER IN WHICH THE SECRETARY MAINTAINS AND IN THE SAME
7 RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
8 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
9 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
10 (3)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF
11 FINANCING STATEMENTS.

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

17 (5) THE PRIORITY OF A SECURITY INTEREST IN CO-EIA PROPERTY
18 IS NOT AFFECTED BY THE COMMINGLING OF CO-EIA PROPERTY OR
19 CO-EIA REVENUE WITH OTHER MONEY. AN ASSIGNEE, BONDHOLDER, OR
20 FINANCING PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT
21 OF ALL CO-EIA PROPERTY OR CO-EIA REVENUE THAT IS PLEDGED FOR
22 THE PAYMENT OF CO-EIA BONDS EVEN IF THE CO-EIA PROPERTY OR
23 CO-EIA REVENUE IS DEPOSITED IN A CASH OR DEPOSIT ACCOUNT OF THE
24 ELECTRIC UTILITY IN WHICH THE CO-EIA REVENUE IS COMMINGLED WITH
25 OTHER MONEY, AND ANY OTHER SECURITY INTEREST THAT APPLIES TO THE
26 OTHER MONEY DOES NOT APPLY TO THE CO-EIA REVENUE.

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

32 **40-41-117. Sales of CO-EIA property.** (1) (a) A SALE,
33 ASSIGNMENT, OR TRANSFER OF CO-EIA PROPERTY IS AN ABSOLUTE
34 TRANSFER AND TRUE SALE OF, AND NOT A PLEDGE OF OR SECURED
35 TRANSACTION RELATING TO, THE SELLER'S RIGHT, TITLE AND INTEREST IN,
36 TO, AND UNDER THE CO-EIA PROPERTY IF THE DOCUMENTS GOVERNING
37 THE TRANSACTION EXPRESSLY STATE THAT THE TRANSACTION IS A SALE
38 OR OTHER ABSOLUTE TRANSFER. A TRANSFER OF AN INTEREST IN CO-EIA
39 PROPERTY MAY BE CREATED ONLY WHEN ALL OF THE FOLLOWING HAVE
40 OCCURRED:

41 (I) THE FINANCING ORDER CREATING AND DESCRIBING THE
42 CO-EIA PROPERTY HAS BECOME EFFECTIVE;
43 (II) THE DOCUMENTS EVIDENCING THE TRANSFER OF THE CO-EIA
44 PROPERTY HAVE BEEN EXECUTED AND DELIVERED TO THE ASSIGNEE; AND

(III) VALUE IS RECEIVED.

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

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

(b) THE RETENTION BY THE SELLER OF:

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

30 (c) ANY REOURSE THAT THE PURCHASER MAY HAVE AGAINST THE
31 SELLER;

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

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

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

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

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

40-41-118. Use of CO-EIA bond proceeds by an electric utility

43 - **definition.** (1) FOR PURPOSES OF THIS SECTION, "LEAST-COST
44 GENERATION RESOURCE" MEANS AN INCREMENTAL SUPPLY-SIDE OR

1 DEMAND-SIDE RESOURCE THAT, WHEN INCLUDED IN AN ELECTRIC UTILITY'S
2 GENERATION PORTFOLIO, PRODUCES THE LOWEST COST AMONG
3 ALTERNATIVE RESOURCES, CONSIDERING BOTH SHORT-TERM AND
4 LONG-TERM COSTS AND ASSESSING THE LIKELIHOOD OF CHANGES IN
5 FUTURE FUEL PRICES AND FUTURE ENVIRONMENTAL REQUIREMENTS,
6 AMONG OTHER CONSIDERATIONS.

7 (2) SUBJECT TO COMMISSION APPROVAL AS REQUIRED BY
8 SUBSECTION (3) OF THIS SECTION, AN ELECTRIC UTILITY MAY EXPEND OR
9 INVEST CO-EIA BOND PROCEEDS, OTHER THAN BOND PROCEEDS REQUIRED
10 BY A FINANCING ORDER TO BE TRANSFERRED TO THE AUTHORITY, IN A
11 MANNER THAT DEMONSTRABLY BENEFITS RATEPAYER INTERESTS, AS
12 FOLLOWS:

13 (a) TO PURCHASE POWER TO REPLACE ELECTRICITY GENERATED BY
14 THE ELECTRIC GENERATING FACILITIES THAT WERE RETIRED IF THE
15 COMMISSION DETERMINES THAT THE PURCHASED POWER IS A LEAST-COST
16 GENERATION RESOURCE AND IS CONSISTENT WITH THE ELECTRIC UTILITY'S
17 APPROVED INTEGRATED RESOURCE PLAN;

18 (b) TO BUILD AND OWN GENERATION FACILITIES THAT ARE
19 LEAST-COST GENERATION RESOURCES, THE ADDITION OF WHICH IS NOT
20 INCONSISTENT WITH THE ELECTRIC UTILITY'S APPROVED INTEGRATED
21 RESOURCE PLAN;

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

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

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

34 (a) USE ITS REGULAR PROCESS FOR CONSIDERATION OF
35 APPLICATIONS;

36 (b) FOR LEAST-COST GENERATION RESOURCES, DETERMINE THE
37 APPROPRIATE LEVELS OF ELECTRIC UTILITY RESOURCE OWNERSHIP, AS
38 PROVIDED FOR IN SUBSECTION (2)(b) OF THIS SECTION, AND PURCHASED
39 POWER, AS PROVIDED FOR IN SUBSECTION (2)(a) OF THIS SECTION; AND

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

43 (4) NOTWITHSTANDING SUBSECTIONS (2) AND (3)(b) OF THIS
44 SECTION, AN ELECTRIC UTILITY IS ALLOWED TO OWN A LEAST-COST

1 GENERATION RESOURCE PURCHASED WITH CO-EIA BOND PROCEEDS IF THE
2 ELECTRIC UTILITY ACQUIRES THE RESOURCE THROUGH A COMPETITIVE
3 SOLICITATION FOR WHICH:

4 (a) THE DETAILS, INCLUDING THE DETAILS OF THE REQUEST FOR
5 PROPOSALS, ARE APPROVED BY THE COMMISSION;

6 (b) NEITHER THE ELECTRIC UTILITY NOR ANY AFFILIATE OF THE
7 ELECTRIC UTILITY PARTICIPATES IN THE SOLICITATION AS A BIDDER;

8 (c) AT ITS OPTION, THE ELECTRIC UTILITY INCLUDES A PROVISION
9 IN THE SOLICITATION THAT REQUIRES OR Allows A SUCCESSFUL PROJECT
10 TO BE TRANSFERRED TO THE ELECTRIC UTILITY AT A PREDETERMINED
11 PRICE AND ON A PREDETERMINED DATE, INCLUDING IMMEDIATELY UPON
12 THE COMPLETION OF THE PROJECT; AND

13 (d) AN INDEPENDENT CONSULTANT, SELECTED AND EMPLOYED BY
14 THE COMMISSION AND PAID BY THE ELECTRIC UTILITY, PERFORMS A
15 REVIEW, THE RESULTS OF WHICH THE INDEPENDENT CONSULTANT SHALL
16 REPORT TO THE COMMISSION TOGETHER WITH AN EVALUATION OF THE
17 SALE OF THE LEAST-COST GENERATION RESOURCES TO THE ELECTRIC
18 UTILITY.

PART 2

COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY

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

31 (2) (a) THE AUTHORITY IS GOVERNED BY A BOARD OF DIRECTORS,
32 WHICH CONSISTS OF SEVEN DIRECTORS APPOINTED BY THE GOVERNOR AS
33 FOLLOWS:

34 (I) ONE DIRECTOR WHO HAS PROFESSIONAL JOB TRAINING
35 EXPERIENCE;

36 (II) ONE DIRECTOR WHO HAS PROFESSIONAL EXPERIENCE IN RURAL
37 ECONOMIC DEVELOPMENT;

38 (III) ONE DIRECTOR WHO HAS ELECTRICAL TRADES LABOR
39 EXPERIENCE; AND

40 (IV) FOUR DIRECTORS APPOINTED WITHOUT OCCUPATIONAL
41 REQUIREMENTS, BUT THE GOVERNOR SHALL STRONGLY CONSIDER
42 APPOINTING A DIRECTOR WHO IS LICENSED TO PRACTICE LAW IN
43 COLORADO, A DIRECTOR WHO HAS PROFESSIONAL FINANCE EXPERIENCE,
44 AND AT LEAST ONE DIRECTOR WHO RESIDES IN AN AREA DIRECTLY

1 IMPACTED BY THE RETIREMENT OF ONE OR MORE ELECTRIC GENERATING
2 FACILITIES.

3 (b) THE GOVERNOR SHALL APPOINT THE INITIAL DIRECTORS OF THE
4 BOARD FOR TERMS BEGINNING JULY 1, 2019. DIRECTORS SERVE FOR
5 FIVE-YEAR TERMS; EXCEPT THAT TWO OF THE DIRECTORS SHALL SERVE
6 INITIAL TERMS OF THREE YEARS. THE GOVERNOR MAY REMOVE A
7 DIRECTOR FOR MISFEASANCE, MALFEASANCE, WILLFUL NEGLECT OF DUTY,
8 OR OTHER CAUSE AFTER NOTICE AND A PUBLIC HEARING UNLESS THE
9 DIRECTOR BEING REMOVED EXPRESSLY WAIVES IN WRITING HIS OR HER
10 RIGHT TO NOTICE AND A PUBLIC HEARING. THE GOVERNOR SHALL FILL ANY
11 VACANCY ON THE BOARD BY THE APPOINTMENT OF A NEW DIRECTOR FOR
12 THE REMAINDER OF THE UNEXPIRED TERM OF THE DIRECTOR WHOSE
13 DEPARTURE CAUSED THE VACANCY.

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

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

27 (a) TO HAVE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS,
28 LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND POLITICAL
29 SUBDIVISION OF THE STATE;

30 (b) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION;

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

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

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

44 (f) TO PAY ITS REASONABLE AND NECESSARY ADMINISTRATIVE

1 AND OPERATING COSTS FROM ANY REVENUE THAT IT RECEIVES;

2 (g) TO SUE AND BE SUED;

3 (h) TO APPOINT, HIRE, RETAIN, AND TERMINATE OFFICERS AND

4 EMPLOYEES AND CONTRACT WITH AGENTS, ATTORNEYS, ACCOUNTANTS,

5 AUDITORS, FINANCIAL ADVISERS, INVESTMENT BANKERS, AND OTHER

6 PROFESSIONAL CONSULTANTS TO THE EXTENT NEEDED TO EXERCISE ITS

7 POWERS AND PERFORM ITS DUTIES UNDER THIS ARTICLE 41;

8 (i) TO ENTER INTO CONTRACTS AND AGREEMENTS, INCLUDING

9 MEMORANDUMS OF UNDERSTANDING OR INTERGOVERNMENTAL

10 AGREEMENTS WITH ONE OR MORE AGENCIES OR POLITICAL SUBDIVISIONS

11 OF THE STATE OR ANOTHER STATE OR WITH THE FEDERAL GOVERNMENT,

12 NOT INCONSISTENT WITH THIS ARTICLE 41 OR ANY OTHER LAWS OF THE

13 STATE. THE AUTHORITY MAY ENTER INTO A CONTRACT OR AGREEMENT

14 WITH AN APPROPRIATE STATE AGENCY TO HELP THE AUTHORITY

15 ADMINISTER THE DISTRIBUTION OF ITS MONEY AS TRANSITION ASSISTANCE,

16 AND, IF IT DOES SO, THE MONEY ADMINISTERED REMAINS MONEY OF THE

17 AUTHORITY UNTIL IT IS DISTRIBUTED AND IS NOT MONEY OR REVENUE OF

18 THE STATE.

19 (j) TO ACQUIRE SPACE, INCLUDING OFFICE SPACE, EQUIPMENT,

20 SERVICES, SUPPLIES, AND INSURANCE NECESSARY TO EXECUTE ITS

21 POWERS, DUTIES, AND MISSION UNDER THIS ARTICLE 41;

22 (k) TO DEPOSIT ITS MONEY IN ANY BANKING INSTITUTION WITHIN

23 THE STATE OR IN ANY DEPOSITORY AUTHORIZED IN SECTION 24-75-603, TO

24 APPOINT, FOR THE PURPOSE OF MAKING SUCH DEPOSITS, ONE OR MORE

25 PERSONS, WHO SHALL GIVE SURETY BONDS IN SUCH AMOUNTS AND FORM

26 AND FOR SUCH PURPOSES AS THE BOARD REQUIRES, TO ACT AS

27 CUSTODIANS OF ITS MONEY, AND TO OTHERWISE DEPOSIT AND INVEST ITS

28 MONEY AS PERMITTED BY PART 6 OF ARTICLE 75 OF TITLE 24; AND

29 (l) TO HAVE AND EXERCISE ANY OTHER POWERS NECESSARY OR

30 INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES

31 GRANTED IN THIS SECTION.

32 **40-41-202. Mitigation of impacts - specific powers and duties**

33 **of authority - local advisory committees.** (1) IN ORDER TO MITIGATE

34 THE DIRECT IMPACTS TO COLORADO WORKERS AND LOCAL COMMUNITIES

35 RESULTING FROM THE RETIREMENT OF ELECTRIC GENERATING FACILITIES,

36 THE AUTHORITY HAS THE FOLLOWING SPECIFIC POWERS AND DUTIES:

37 (a) TO DETERMINE THE DIRECT IMPACTS THAT THE RETIREMENT OF

38 AN ELECTRIC GENERATING FACILITY OWNED BY AN ELECTRIC UTILITY WILL

39 HAVE ON COLORADO WORKERS AND COMMUNITIES AND TO CONSULT WITH

40 THE DEPARTMENT OF LOCAL AFFAIRS, LOCAL GOVERNMENTS, ELECTRIC

41 UTILITIES, LABOR UNIONS, AND ANY OTHER PERSONS WHO POSSESS

42 RELEVANT INFORMATION IN MAKING ANY SUCH DETERMINATION;

43 (b) TO RECEIVE PAYMENTS FROM ELECTRIC UTILITIES REQUIRED TO

44 MAKE PAYMENTS TO THE AUTHORITY PURSUANT TO THE PROVISIONS OF A

1 FINANCING ORDER AND MAINTAIN A BALANCING ACCOUNT TO HOLD ANY
2 EXCESS MONEY NOT NEEDED IN THE SHORT RUN THAT HAS SEPARATE
3 SUBACCOUNTS FOR EACH ELECTRIC UTILITY THAT MAKES PAYMENTS TO
4 THE AUTHORITY; AND

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

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

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

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

38 (b) SHALL ADVISE THE AUTHORITY WITH RESPECT TO THE NATURE
39 AND SCOPE OF THE DIRECT IMPACTS TO THE COMMUNITY RESULTING FROM
40 THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY AND THE
41 DEVELOPMENT OF A TRANSITION ASSISTANCE PLAN FOR THE COMMUNITY;
42 AND

43 (c) MAY EITHER BE DISSOLVED BY THE AUTHORITY WHEN THE
44 TRANSITION ASSISTANCE IS COMPLETED OR MAINTAINED TO ADVISE THE

1 AUTHORITY REGARDING THE IMPLEMENTATION OF THE TRANSITION
2 ASSISTANCE.

3 **40-41-203. Voluntary contributions to authority by utilities.**

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

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

23 **40-41-204. Reporting to general assembly.** NOTWITHSTANDING
24 SECTION 24-1-136(11), FOR ANY FISCAL YEAR IN WHICH THE AUTHORITY
25 HAS PROVIDED TRANSITION ASSISTANCE, THE AUTHORITY, NO LATER THAN
26 FEBRUARY 15 OF THE FOLLOWING FISCAL YEAR, SHALL SUBMIT TO THE
27 FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE
28 SENATE, THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE
29 OF REPRESENTATIVES, AND THE AGRICULTURE, NATURAL RESOURCES, AND
30 ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, A
31 REPORT THAT SETS FORTH A COMPLETE AND DETAILED FINANCIAL AND
32 OPERATING STATEMENT OF THE AUTHORITY DURING THE FISCAL YEAR.

33 **40-41-205. Authority subject to open meetings and open
34 records laws.** THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
35 PROVISIONS OF PART 4 OF ARTICLE 6 OF TITLE 24 AND THE "COLORADO
36 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

37 **SECTION 2.** In Colorado Revised Statutes, 24-77-102, **amend**
38 the introductory portion; and **add** (15)(b)(XIX) as follows:

39 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
40 the context otherwise requires:

41 (15)(b) "Special purpose authority" includes, but is not limited to:
42 (XIX) THE COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY
43 CREATED PURSUANT TO SECTION 40-41-201 (1).

44 **SECTION 3. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2020 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.".

*** * * * *