

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0932.01 Jennifer Berman x3286

HOUSE BILL 18-1345

HOUSE SPONSORSHIP

Arndt and Hansen, Liston, Bridges, Catlin, Covarrubias

SENATE SPONSORSHIP

Coram and Moreno, Kefalas

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PROCESS BY WHICH AN INCUMBENT ELECTRIC UTILITY**
102 **MAY EXERCISE A RIGHT OF FIRST REFUSAL TO CONSTRUCT AN**
103 **ELECTRIC TRANSMISSION LINE THAT HAS BEEN APPROVED FOR**
104 **CONSTRUCTION PURSUANT TO A FEDERAL REGIONAL**
105 **TRANSMISSION PLANNING REQUIREMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The federal energy regulatory commission requires each public utility transmission provider to participate in a regional transmission

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

planning process to produce a regional transmission plan. If construction of an electric transmission line (line) in Colorado has been approved in a regional transmission plan or by another applicable federal regional transmission planning requirement, the bill affords an incumbent electric utility owning the existing transmission facilities to which the line will connect up to 180 days after the line has been approved to give written notice to the public utilities commission (commission) that the incumbent electric utility intends to construct, own, and maintain the line. If the incumbent electric utility does not provide notice to the commission, the incumbent electric utility surrenders its right of first refusal to construct, own, and maintain the line. If the incumbent electric utility provides the notice, the incumbent electric utility, if it is subject to the commission's regulation, shall, within 24 months after filing the notice, file an application with the commission for a certificate of public convenience and necessity to construct the line.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 40-5-107 as
3 follows:

4 **40-5-107. Incumbent electric utility's right of first refusal to**
5 **construct an electric transmission line approved in a regional**
6 **transmission plan - definitions.** (1) (a) IF AN ELECTRIC TRANSMISSION
7 LINE HAS BEEN APPROVED FOR CONSTRUCTION IN A REGIONAL
8 TRANSMISSION PLAN DEVELOPED IN ACCORDANCE WITH FERC ORDER
9 1000 OR APPROVED PURSUANT TO ANOTHER APPLICABLE FEDERAL
10 REGIONAL TRANSMISSION PLANNING REQUIREMENT, AN INCUMBENT
11 ELECTRIC UTILITY THAT OWNS THE EXISTING ELECTRIC TRANSMISSION
12 FACILITIES TO WHICH THE ELECTRIC TRANSMISSION LINE WILL CONNECT
13 MUST GIVE NOTICE TO THE COMMISSION, WITHIN ONE HUNDRED EIGHTY
14 DAYS AFTER THE ELECTRIC TRANSMISSION LINE'S APPROVAL, IF THE
15 INCUMBENT ELECTRIC UTILITY INTENDS TO CONSTRUCT, OWN, AND
16 MAINTAIN THE ELECTRIC TRANSMISSION LINE.

17 (b) A MUNICIPALLY OWNED UTILITY THAT FILES A NOTICE WITH

1 THE COMMISSION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION DOES
2 SO ONLY FOR INFORMATIONAL PURPOSES. THE NOTICE IS NOT SUBJECT TO
3 COMMISSION APPROVAL AND THE MUNICIPALLY OWNED UTILITY HAS NO
4 FURTHER OBLIGATIONS UNDER THIS SECTION.

5 (c) (I) IF AN INCUMBENT ELECTRIC UTILITY PROVIDES NOTICE TO
6 THE COMMISSION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION AND
7 IS SUBJECT TO REGULATION BY THE COMMISSION, THE INCUMBENT
8 ELECTRIC UTILITY SHALL, WITHIN TWENTY-FOUR MONTHS AFTER
9 PROVIDING THE NOTICE TO THE COMMISSION, FILE AN APPLICATION WITH
10 THE COMMISSION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND
11 NECESSITY TO CONSTRUCT THE ELECTRIC TRANSMISSION LINE PURSUANT
12 TO SECTION 40-5-101 (1)(a).

13 (II) IF AN INCUMBENT ELECTRIC UTILITY DOES NOT PROVIDE
14 NOTICE PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION OR, IF SUBJECT
15 TO THE COMMISSION'S JURISDICTION, FAILS TO FILE A PETITION FOR A
16 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY WITHIN
17 TWENTY-FOUR MONTHS AFTER PROVIDING NOTICE PURSUANT TO
18 SUBSECTION (1)(a) OF THIS SECTION, THE INCUMBENT ELECTRIC UTILITY
19 SURRENDERS ITS RIGHT OF FIRST REFUSAL TO CONSTRUCT, OWN, AND
20 MAINTAIN THE ELECTRIC TRANSMISSION LINE.

21 (2) AS USED IN THIS SECTION:

22 (a) (I) "ELECTRIC TRANSMISSION LINE" MEANS ANY TRANSMISSION
23 LINE AND ITS RELATED FACILITIES THAT CONNECT TO EXISTING ELECTRIC
24 TRANSMISSION FACILITIES CAPABLE OF TRANSMITTING ELECTRIC ENERGY
25 AT A VOLTAGE OF ONE HUNDRED KILOVOLTS OR MORE.

26 (II) "ELECTRIC TRANSMISSION LINE" DOES NOT INCLUDE A LINE
27 USED SOLELY FOR CONNECTING AN ELECTRIC GENERATION FACILITY TO

1 FACILITIES OWNED BY A WHOLESALE OR RETAIL ELECTRICITY SUPPLIER.

2 (b) "FERC ORDER 1000" MEANS THE FEDERAL ENERGY
3 REGULATORY COMMISSION'S RULE CONCERNING TRANSMISSION PLANNING
4 AND COST ALLOCATION BY TRANSMISSION OWNING AND OPERATING
5 PUBLIC UTILITIES, CODIFIED IN 18 CFR PART 35.

6 (c) "INCUMBENT ELECTRIC UTILITY" MEANS AN ENTITY THAT:

7 (I) IS A WHOLESALE OR RETAIL ELECTRICITY SUPPLIER;

8 (II) IS A MEMBER OF A REGIONAL PLANNING ORGANIZATION THAT
9 HAS PREPARED A REGIONAL TRANSMISSION PLAN; AND

10 (III) OWNS AND OPERATES ELECTRIC TRANSMISSION LINES
11 CAPABLE OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE
12 HUNDRED KILOVOLTS OR MORE.

13 **SECTION 2. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2018 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.