A BILL FOR AN ACT

Concerning incentives for the development of an electric grid that fully accommodates increased production from zero-carbon generation resources.

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.)

Section 1 of the bill directs the public utilities commission (PUC) to approve utilities' applications to build new transmission facilities if the PUC finds that the new facilities would assist the utilities in meeting the state's clean energy goals established in 2019. Applications are deemed approved if the PUC does not deny them within 180 days after completion.
and public notice of the application.

Section 2 directs the PUC, as part of its ongoing docket regarding evaluation of the benefits of a regional transmission organization, to undertake and, by December 31, 2020, to complete a review of existing and potential additional energy resource zones for renewable resource generation development areas within Colorado. The purposes of the study are to:

- Identify planned electric transmission lines (lines) and renewable resource generation development areas within Colorado that have potential to support competition among renewable energy developers for development of renewable resource generation projects;
- Evaluate opportunities to support transitions in electricity generation by evaluating renewable resource generation opportunities located in communities with substantial economic activity and employment in the fossil fuel industry; and
- Identify opportunities for the development of renewable resources:
  - For export to consumers outside of Colorado and the potential to use new and existing transmission capacity for export; and
  - To be interconnected to the transmission system in a manner that promotes a reliable and integrated transmission system and shifts the state away from inefficient, radial transmission development.

Section 2 also amends the existing statute to narrow the scope of the PUC's docket inquiry, including only consideration of regional transmission organizations and removing references to energy imbalance markets, power pools, and joint tariffs.

If a potential line in Colorado has been submitted to the PUC as part of an electric resource plan based on the inclusion of planned lines in the report the PUC is required to submit as part of its docket inquiry, pursuant to existing requirements for transmission plan reporting, or under a regional transmission plan required by another applicable federal regional transmission planning requirement, section 2 allows bidders in an electric resource plan to rely on the planned line for interconnection in their proposals made pursuant to utility resource plans.

Under section 2, the PUC is directed to review clean energy project bids without such bids being burdened by the cost of planned lines. If the development of such lines would result in cost-effective generation being developed to meet the state's clean energy goals, then the PUC shall direct public utilities to submit those lines for approval and construction in order to meet the state's 2030 clean energy goals and beyond.
The federal energy regulatory commission requires each public utility transmission provider to participate in a regional transmission planning process to produce a regional transmission plan. If construction of a line in Colorado has been approved in a regional transmission plan or by another applicable federal regional transmission planning requirement, section 3 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 PUC that the incumbent electric utility intends to construct, own, and maintain the line. If the incumbent electric utility does not provide notice to the PUC, 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 PUC's regulation, shall, within 24 months after filing the notice, file an application with the PUC for a certificate of public convenience and necessity to construct the line.

The right of first refusal is conditioned on the incumbent electric utility having joined a regional transmission organization and exercising the right of first refusal within ten years thereafter.

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

SECTION 1. In Colorado Revised Statutes, 40-2-126, amend (3) introductory portion and (3)(a); and recreate and reenact, with amendments, (4) as follows:

40-2-126. Transmission facilities - biennial review - energy resource zones - definition - plans - approval - cost recovery. (3) The commission shall approve a utility's application for a certificate of public convenience and necessity for the COST-EFFECTIVE construction or expansion of transmission facilities pursuant to paragraph (b) of subsection (2) of this section if the commission finds that:

(a) The construction or expansion is required to ensure the reliable delivery of electricity to Colorado consumers, or to enable the utility to meet the renewable energy standards set forth in section 40-2-124, or to
EFFECTUATE CLEAN ENERGY PLANS APPROVED PURSUANT TO SECTION 40-2-125.5; and

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ANY APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OR EXPANSION OF TRANSMISSION FACILITIES PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, THE COMMISSION SHALL ISSUE A FINAL ORDER WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE APPLICATION IS DEEMED COMPLETE AND PUBLIC NOTICE OF THE APPLICATION IS GIVEN. IF THE COMMISSION DOES NOT ISSUE A FINAL ORDER WITHIN THAT PERIOD, THE APPLICATION IS DEEMED APPROVED.

SECTION 2. In Colorado Revised Statutes, amend 40-2.3-102 as follows:


(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.

(a) Both participating and nonparticipating retail and wholesale Colorado electric service providers;

(b) Wholesale electric energy rates;

(c) Transmission rates;
Retail electric energy rates for both participating and nonparticipating Colorado retail electric service providers; Commitment and dispatch of generation and real-time dispatch optimization of energy and ancillary services; Reserve margin requirements; Short-term and long-term operational costs; Regional infrastructure investment in response to growth in demand for electric energy or changes in energy production; Operating reserve procurement; and Renewable energy resource interconnection and integration.

(2) On or before January 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, a regional transmission organization, power pool, or joint tariff.

(3) On or before July 1, 2021, the commission shall issue a decision determining whether electric utilities participating in an energy imbalance market, a 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, a 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, a regional transmission organization power pool, or joint tariff.

(5) (a) **Study.** (I) As part of its docket opened pursuant to
SUBSECTIONS (1) TO (4) OF THIS SECTION, THE COMMISSION IS DIRECTED TO UNDERTAKE AND, BY DECEMBER 31, 2020, TO COMPLETE A STUDY OF EXISTING AND POTENTIAL ADDITIONAL ENERGY RESOURCE ZONES FOR RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS AND PLANNED TRANSMISSION LINES WITHIN COLORADO IN ACCORDANCE WITH SUBSECTION (5)(b) OF THIS SECTION.

(II) THE COMMISSION SHALL HOLD AT LEAST THREE MEETINGS, WHICH SHALL BE OPEN TO THE PUBLIC, FOR THE PURPOSE OF SOLICITING PUBLIC INPUT. ONE OF THE MEETINGS SHALL BE HOSTED IN A REGION OF THE STATE THAT HAS PREVIOUSLY BEEN IDENTIFIED AS A RENEWABLE ENERGY RESOURCE ZONE AND ANOTHER SHALL BE HOSTED IN A FOSSIL FUEL HOST COMMUNITY. THE COMMISSION SHALL SOLICIT AND RECEIVE COMMENTS, INCLUDING WRITTEN COMMENTS, FROM MEMBERS OF THE PUBLIC. THE COMMISSION MAY DETERMINE THE MANNER IN WHICH SUCH COMMENTS ARE RECEIVED.

(III) THE COMMISSION SHALL CONSIDER AND GIVE WEIGHT TO ANY COMMENTS RECEIVED FROM THE GENERAL PUBLIC AS WELL AS WRITTEN COMMENTS FROM AFFECTED COUNTIES, CITIES, ELECTRIC UTILITIES AND THEIR CUSTOMERS, ENVIRONMENTAL GROUPS, AND OTHER INTERESTED STAKEHOLDERS.

(b) Scope of inquiry. At a minimum, the commission, in conducting the study, shall:

(I) DEVELOP A MAP OF EXISTING GENERATION AND TRANSMISSION LINES, PLANNED TRANSMISSION LINES, AND POTENTIAL RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS WITHIN COLORADO THAT HAVE POTENTIAL TO SUPPORT COMPETITION AMONG RENEWABLE ENERGY DEVELOPERS FOR DEVELOPMENT OF RENEWABLE RESOURCE GENERATION.
PROJECTS OR TO EFFECTUATE CLEAN ENERGY PLANS APPROVED PURSUANT TO SECTION 40-2-125.5;

(II) IDENTIFY POTENTIAL RENEWABLE RESOURCE GENERATION DEVELOPMENT IN FOSSIL FUEL HOST COMMUNITIES IN ORDER TO SUPPORT ENERGY SECTOR TRANSITIONS;

(III) IDENTIFY OPPORTUNITIES FOR THE DEVELOPMENT OF ENERGY STORAGE AND NONRENEWABLE RESOURCES THAT DO NOT EMIT CARBON DIOXIDE FROM THE GENERATION OF ELECTRICITY IN ORDER TO SUPPORT COLORADO'S CARBON DIOXIDE EMISSIONS REDUCTION GOALS AND THE DEVELOPMENT OF CLEAN ENERGY PLANS FILED PURSUANT TO SECTION 40-2-125.5;

(IV) IDENTIFY OPPORTUNITIES FOR THE DEVELOPMENT OF RENEWABLE RESOURCES FOR THE PRIMARY PURPOSE OF EXPORTING ELECTRICITY TO CONSUMERS OUTSIDE OF COLORADO;

(V) EVALUATE THE POTENTIAL USE OF ENTERPRISE ZONES IN THE DEVELOPMENT OF RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS;

(VI) EVALUATE THE TRANSMISSION NEEDS OF THE RENEWABLE RESOURCE GENERATION DEVELOPMENT AREAS WITH REGARD TO LOCATIONS IN WHICH CUSTOMERS CAN USE THE RENEWABLE RESOURCES, INCLUDING AN EVALUATION OF ENERGY RESOURCE GENERATION ZONES AND TRANSMISSION LINES IDENTIFIED BY COLORADO ELECTRIC UTILITIES IN THEIR MOST RECENT FILINGS PURSUANT TO SECTION 40-2-126;

(VII) EVALUATE EXISTING AND POTENTIAL POINTS OF CONGESTION AND AREAS SUITABLE FOR ADDITIONAL INTERCONNECTION TO AVOID CONGESTION;

(VIII) EVALUATE WHETHER SELF-PROVISION OF TRANSMISSION
PROJECTS SINCE THE CREATION OF THE TASK FORCE PURSUANT TO SENATE BILL 07-100, ENACTED IN 2007, HAS PROVIDED THE MOST ECONOMICAL RESULTS FOR RATEPAYERS; AND

(IX) EVALUATE THE POTENTIAL DEVELOPMENT OF VARIOUS RESOURCES THAT SUPPORT COLORADO'S CARBON DIOXIDE EMISSIONS REDUCTION GOALS, INCLUDING ELIGIBLE ENERGY RESOURCES AS DEFINED IN SECTION 40-2-124 (1)(a), ENERGY STORAGE, AND ANY OTHER NONCARBON-EMITTING ELECTRIC GENERATION RESOURCE, TAKING INTO ACCOUNT THE SOCIAL COST OF CARBON ESTABLISHED IN ACCORDANCE WITH SECTION 40-3.2-106 (4).

(c) Report. The commission shall report its findings on the areas of inquiry identified in subsection (5)(b) of this section to the governor and the general assembly no later than December 31, 2020. The commission's report, considering input from both regulated and unregulated entities, shall constitute a statewide transmission plan. The inclusion of planned transmission lines in the report creates a rebuttable presumption that the public convenience and necessity require construction of the lines, and public utilities and generation resource developers may rely on the future existence of such a line in their electric resource plans.

(d) Repeal. This subsection (5) is repealed, effective January 1, 2021.

(6) Effect in electric resource plan proceedings. (a) In any electric resource plan filed by a public utility, including a plan filed pursuant to section 40-2-125.5, the public utility shall allow bidders to submit, as part of any procurement process,
PROPOSALS FOR RESOURCES THAT IDENTIFY A POINT OF INTERCONNECTION TO PLANNED TRANSMISSION LINES IDENTIFIED IN:

(I) The report submitted pursuant to subsection (5)(c) of this section; or

(II) Another transmission planning report submitted to the Commission under its rules or otherwise pursuant to this Title 40.

(b) The Commission shall evaluate electric resource plan proposals independent of the cost of any planned transmission lines to which the projects propose to interconnect, regardless of whether the planned transmission lines have received a certificate of public convenience and necessity. The Commission shall approve a planned transmission line as part of its approval of the electric resource plan if resource proposals that interconnect to a planned transmission line are a part of the selected resource portfolio.

(c) If the Commission approves a planned transmission line as part of an electric resource plan, the utility shall submit to the Commission an application for a certificate of public convenience and necessity for the planned transmission line within six months after approval of the electric resource plan, and the Commission shall require that the planned transmission line be constructed in a manner that accommodates the anticipated in-service date of resources that will be interconnected to the line. The Commission may allow the staged construction of a planned transmission line if the Commission finds such staging to be in the public interest.
(7) **Definitions.** As used in this section:

(a) (I) "Electric transmission line" means any transmission line and its related facilities that connect to existing electric transmission facilities capable of transmitting electric energy at a voltage of one hundred kilovolts or more.

(II) "Electric transmission line" does not include a line used solely for connecting an electric generation facility to facilities owned by a wholesale or retail electricity supplier.

(b) "Planned transmission line" means an electric transmission line included in a proposal or study of potential transmission facilities that has been presented to the commission pursuant to this section or any rule of the commission or as part of any federal energy regulatory commission transmission planning process.

**SECTION 3.** In Colorado Revised Statutes, add 40-5-108 as follows:

40-5-108. Incumbent electric utility's right of first refusal to construct an electric transmission line approved in a regional transmission plan - definitions. (1) (a) If an electric transmission line has been approved for construction in a regional transmission plan developed in accordance with FERC Order 1000 or approved pursuant to another applicable federal regional transmission planning requirement, an incumbent electric utility that owns the existing electric transmission facilities to which the electric transmission line will connect must give notice to the commission, within one hundred eighty days after the electric transmission line's approval, if the
INCUMBENT ELECTRIC UTILITY INTENDS TO CONSTRUCT, OWN, AND MAINTAIN THE ELECTRIC TRANSMISSION LINE.

(b) A MUNICIPALLY OWNED UTILITY OR A COOPERATIVE ELECTRIC ASSOCIATION THAT HAS EXEMPTED ITSELF FROM COMMISSION REGULATION THAT FILES A NOTICE WITH THE COMMISSION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION DOES SO ONLY FOR INFORMATIONAL PURPOSES. THE NOTICE IS NOT SUBJECT TO COMMISSION APPROVAL AND THE MUNICIPALLY OWNED UTILITY OR COOPERATIVE ELECTRIC ASSOCIATION THAT HAS EXEMPTED ITSELF FROM COMMISSION REGULATION HAS NO FURTHER OBLIGATIONS UNDER THIS SECTION.

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

(II) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, AN INCUMBENT ELECTRIC UTILITY SHALL NOT HAVE A RIGHT OF FIRST REFUSAL TO CONSTRUCT, OWN, AND MAINTAIN AN ELECTRIC TRANSMISSION LINE PURSUANT TO THIS SECTION UNLESS THE ELECTRIC UTILITY:

(A) PROVIDES NOTICE PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION OR, IF SUBJECT TO THE COMMISSION'S JURISDICTION, FILES A PETITION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY WITHIN TWENTY-FOUR MONTHS AFTER PROVIDING NOTICE PURSUANT TO
SUBSECTION (1)(a) OF THIS SECTION;

(B) IS A MEMBER OF A REGIONAL TRANSMISSION ORGANIZATION;

AND

(C) EXERCISES THE RIGHT OF FIRST REFUSAL WITHIN TEN YEARS

AFTER JOINING THE REGIONAL TRANSMISSION ORGANIZATION.

(2) AS USED IN THIS SECTION:

(a) (I) "ELECTRIC TRANSMISSION LINE" MEANS ANY TRANSMISSION

LINE AND ITS RELATED FACILITIES THAT CONNECT TO EXISTING ELECTRIC

TRANSMISSION FACILITIES CAPABLE OF TRANSMITTING ELECTRIC ENERGY

AT A VOLTAGE OF SIXTY-NINE KILOVOLTS OR MORE.

(II) "ELECTRIC TRANSMISSION LINE" DOES NOT INCLUDE A LINE

USED SOLELY FOR CONNECTING AN ELECTRIC GENERATION FACILITY TO

FACILITIES OWNED BY A WHOLESALE OR RETAIL ELECTRICITY SUPPLIER.

(b) "FERC ORDER 1000" MEANS THE FEDERAL ENERGY

REGULATORY COMMISSION'S RULE CONCERNING TRANSMISSION PLANNING

AND COST ALLOCATION BY TRANSMISSION OWNING AND OPERATING

PUBLIC UTILITIES, CODIFIED IN 18 CFR 35.1 TO 35.47, COMPRISING

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

(I) IS A WHOLESALE OR RETAIL ELECTRICITY SUPPLIER;

(II) IS A MEMBER OF A REGIONAL PLANNING ORGANIZATION THAT

HAS PREPARED A REGIONAL TRANSMISSION PLAN; AND

(III) OWNS AND OPERATES ELECTRIC TRANSMISSION LINES

CAPABLE OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE

HUNDRED KILOVOLTS OR MORE.

SECTION 4. Applicability. This act applies to conduct occurring

on or after the effective date of this act.
SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.