

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0499.01 Duane Gall x4335

SENATE BILL 21-072

SENATE SPONSORSHIP

Hansen and Coram,

HOUSE SPONSORSHIP

Valdez A.,

Senate Committees

Transportation & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXPANSION OF ELECTRIC TRANSMISSION FACILITIES**
102 **TO ENABLE COLORADO TO MEET ITS CLEAN ENERGY GOALS,**
103 **AND, IN CONNECTION THEREWITH, CREATING THE COLORADO**
104 **ELECTRIC TRANSMISSION AUTHORITY, REQUIRING**
105 **TRANSMISSION UTILITIES TO JOIN ORGANIZED WHOLESALE**
106 **MARKETS, AND ALLOWING ADDITIONAL CLASSES OF**
107 **TRANSMISSION UTILITIES TO OBTAIN REVENUE THROUGH THE**
108 **COLOCATION OF BROADBAND FACILITIES WITHIN THEIR**
109 **EXISTING RIGHTS-OF-WAY.**

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

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.*

SENATE
Amended 2nd Reading
April 13, 2021

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, in its discretion, finds that the new facilities would assist the utilities in meeting the state's clean energy goals established in 2019. In constructing or expanding transmission facilities, a utility must use its own employees, engage a contractor whose employees have access to federally approved apprenticeship programs, or both. Section 1 also requires the PUC to consider the ability of the proposed facilities to support future expansion as needed to enable the utility to participate in a regional transmission organization (RTO). An application for construction or expansion of transmission facilities is deemed approved if the PUC does not deny it within 180 days after the application is complete and public notice has been given.

Sections 4 and 5 create the Colorado electric transmission authority (CETA) as an independent special purpose authority, and section 4 specifies the composition and manner of appointment of the board of directors that governs the authority. CETA is authorized to select a qualified transmission operator to finance, plan, acquire, maintain, and operate eligible electric transmission and interconnected storage facilities (eligible facilities).

Under **sections 4 and 6**, CETA is granted various powers necessary to accomplish its purposes, including the power to:

- Issue revenue bonds;
- Identify and establish intrastate electric transmission corridors;
- Coordinate with other entities to establish interstate electric transmission corridors;
- Exercise the power of eminent domain to acquire eligible facilities; and
- Collect payments of reasonable rates, fees, interest, or other charges from persons using eligible facilities.

CETA is generally subject to state open records and open meetings requirements, but proprietary confidential information that it holds, including power purchase agreements, costs of production, costs of transmission, transmission service agreements, credit reviews, detailed power models, and financing statements, is not subject to inspection. **Section 8** authorizes payment of CETA's administrative expenses, not to exceed \$500,000 annually, from an existing cash fund administered by the PUC.

Section 2 sets out deadlines and conditions under which an electric utility that owns and controls transmission facilities is required to join an RTO. The commission may delay or waive this requirement for a utility

that is unable, despite its best efforts, to find a viable and available RTO to join or if the commission finds, in the course of its ongoing study of RTOs under Senate Bill 19-236, that requiring the utility to join an RTO would not be in the public interest.

Under current law, a cooperative electric association with an electric easement on real property is authorized to install or to allow a commercial broadband supplier to install broadband facilities on the real property, subject to notice and procedural requirements. **Section 3** expands the authorization to also apply to either of the following entities with an electric easement:

- A generation and transmission cooperative electric association; or
- The federal western area power administration within the United States department of energy.

Section 7 specifies that when a right-of-way is taken for an interstate electric transmission line, the court shall evaluate public purpose in light of the transmission system as a whole, including public use and benefits occurring both within Colorado and at a regional level.

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

2 **SECTION 1. In Colorado Revised Statutes, 40-2-126, amend (3)**
3 **introductory portion and (3)(a); add (5); and recreate and reenact, with**
4 **amendments, (4) as follows:**

5 **40-2-126. Transmission facilities - biennial review - energy**
6 **resource zones - definition - plans - approval - cost recovery. (3) The**
7 **commission shall MAY, CONSISTENT WITH ITS AUTHORITY, approve a**
8 **utility's application for a certificate of public convenience and necessity**
9 **for the COST-EFFECTIVE construction or expansion of transmission**
10 **facilities pursuant to paragraph (b) of subsection (2) SUBSECTION (2)(b)**
11 **of this section if the commission finds that:**

12 **(a) The construction or expansion:**

13 **(I) Is required to:**

14 **(A) Ensure the reliable delivery of electricity to Colorado**
15 **consumers, or to EITHER ALONE OR IN COMBINATION WITH THE**

1 CONSUMERS OF OTHER STATES SERVED BY AN ORGANIZED WHOLESALE
2 MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); OR

3 (B) Enable the utility to meet the renewable energy standards set
4 forth in section 40-2-124 OR ACHIEVE EMISSION REDUCTIONS UNDER
5 SECTION 25-7-102 OR 40-2-125.5;

6 (II) CAN REASONABLY ACCOMMODATE FUTURE EXPANSION,
7 THROUGH THE ADDITION OF MORE LINES OR GREATER CAPACITY, AS MAY
8 BE REQUIRED TO SUPPORT THE UTILITY'S PARTICIPATION IN AN ORGANIZED
9 WHOLESALE MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); and

10 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN
11 RESPONSE TO ANY APPLICATION FOR A CERTIFICATE OF PUBLIC
12 CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OR EXPANSION OF
13 TRANSMISSION FACILITIES THAT IS SUBMITTED TO THE COMMISSION
14 PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION, THE COMMISSION
15 SHALL ISSUE A FINAL ORDER WITHIN ONE HUNDRED EIGHTY DAYS AFTER
16 THE APPLICATION IS DEEMED COMPLETE AND PUBLIC NOTICE OF THE
17 APPLICATION IS GIVEN; EXCEPT THAT THE APPLICANT MAY WAIVE THIS
18 ONE-HUNDRED-EIGHTY-DAY DEADLINE. ABSENT SUCH WAIVER, IF THE
19 COMMISSION DOES NOT ISSUE A FINAL ORDER WITHIN THAT PERIOD, THE
20 APPLICATION IS DEEMED APPROVED.

21 (5) IN ANY CONSTRUCTION OR EXPANSION APPROVED PURSUANT
22 TO THIS SECTION, THE UTILITY SHALL USE ITS OWN EMPLOYEES OR
23 QUALIFIED CONTRACTORS, OR BOTH, BUT SHALL NOT USE A CONTRACTOR
24 UNLESS THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
25 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
26 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
27 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT

1 THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

2 (a) THE DESIGN, PLANNING, OR ENGINEERING OF THE
3 TRANSMISSION FACILITIES;

4 (b) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION
5 FACILITIES; OR

6 (c) ANY WORK PERFORMED IN RESPONSE TO A WARRANTY CLAIM.

7 SECTION 2. In Colorado Revised Statutes, add 40-5-108 as
8 follows:

9 **40-5-108. Electric utility participation in organized wholesale**
10 **markets required - conditions - authority of commission - definitions.**

11 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (a) (I) "ORGANIZED WHOLESALE MARKET" OR "OWM" MEANS AN
14 ENTITY ESTABLISHED FOR THE PURPOSE OF COORDINATING AND
15 EFFICIENTLY MANAGING THE DISPATCH AND TRANSMISSION OF
16 ELECTRICITY AMONG PUBLIC UTILITIES ON A MULTISTATE OR REGIONAL
17 BASIS AND THAT:

18 (A) IS APPROVED BY THE FEDERAL ENERGY REGULATORY
19 COMMISSION;

20 (B) EFFECTS SEPARATE CONTROL OF TRANSMISSION FACILITIES
21 FROM CONTROL OF GENERATION FACILITIES;

22 (C) IMPLEMENTS, TO THE EXTENT REASONABLY POSSIBLE, POLICIES
23 AND PROCEDURES DESIGNED TO MINIMIZE PANCAKED TRANSMISSION
24 RATES WITHIN COLORADO;

25 (D) IMPROVES, TO THE EXTENT REASONABLY POSSIBLE, SERVICE
26 RELIABILITY WITHIN COLORADO;

27 (E) IS OF SUFFICIENT SCOPE OR OTHERWISE OPERATES TO

1 SUBSTANTIALLY INCREASE ECONOMICAL SUPPLY OPTIONS FOR
2 CUSTOMERS;

3 (F) HAS A STRUCTURE OF GOVERNANCE OR CONTROL THAT IS
4 INDEPENDENT OF THE OWNERSHIP AND OPERATION OF THE TRANSMISSION
5 FACILITIES, AND NO MEMBER OF ITS BOARD OF DIRECTORS HAS AN
6 AFFILIATION WITH A USER OR WITH AN AFFILIATE OF A USER DURING THE
7 MEMBER'S TENURE ON THE BOARD SO AS TO UNDULY AFFECT THE OWM'S
8 PERFORMANCE. AS USED IN THIS SUBSECTION (1)(a)(I)(F), "USER" MEANS
9 ANY ENTITY OR AFFILIATE OF THAT ENTITY THAT BUYS OR SELLS ELECTRIC
10 ENERGY IN THE OWM'S REGION OR IN A NEIGHBORING REGION.

11 (G) OPERATES UNDER POLICIES THAT PROMOTE POSITIVE
12 PERFORMANCE DESIGNED TO SATISFY THE ELECTRICITY REQUIREMENTS OF
13 CUSTOMERS;

14 (H) HAS AN INCLUSIVE AND OPEN STAKEHOLDER PROCESS THAT
15 DOES NOT PLACE UNREASONABLE BURDENS ON, OR PRECLUDE
16 MEANINGFUL PARTICIPATION BY, ANY STAKEHOLDER GROUP; AND

17 (I) CONSISTENT WITH AND IN SUPPORT OF FERC POLICIES AND
18 ORDERS AND LOCAL PLANNING BY COLORADO PUBLIC UTILITIES, IS
19 CAPABLE OF: PLANNING FOR IMPROVED EFFICIENCY OF USE, FUTURE
20 EXPANSION, AND CONSIDERATION OF ALL OPTIONS FOR MEETING
21 TRANSMISSION NEEDS; PROVIDING EFFECTIVE COST ALLOCATIONS THAT
22 REFLECT BENEFITS OF TRANSMISSION INVESTMENTS; MAINTAINING
23 REAL-TIME RELIABILITY OF THE ELECTRIC TRANSMISSION SYSTEM;
24 ENSURING COMPARABLE AND NONDISCRIMINATORY TRANSMISSION ACCESS
25 AND NECESSARY SERVICES; MINIMIZING SYSTEM CONGESTION; AND
26 FURTHER ADDRESSING REAL OR POTENTIAL TRANSMISSION CONSTRAINTS.

27 (II) "ORGANIZED WHOLESALE MARKET" MEANS A REGIONAL

1 TRANSMISSION ORGANIZATION, ALSO KNOWN AS AN RTO, OR AN
2 INDEPENDENT SYSTEM OPERATOR, ALSO KNOWN AS AN ISO.

3 (b) "TRANSMISSION UTILITY" MEANS A PUBLIC UTILITY THAT:
4 (I) IS A WHOLESALE ELECTRICITY SUPPLIER OR TRANSMITTER; AND
5 (II) OWNS AND OPERATES ELECTRIC TRANSMISSION LINES CAPABLE
6 OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE HUNDRED
7 KILOVOLTS OR MORE.

8 (2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
9 (2)(a)(II) OF THIS SECTION, AND EXCEPT FOR MUNICIPALLY OWNED
10 UTILITIES AND POWER AUTHORITIES, ALL COLORADO TRANSMISSION
11 UTILITIES SHALL JOIN AN ORGANIZED WHOLESALE MARKET ON OR BEFORE
12 JANUARY 1, 2030.

13 (II) UPON APPLICATION BY A TRANSMISSION UTILITY, THE
14 COMMISSION MAY WAIVE OR DELAY THE REQUIREMENT STATED IN
15 SUBSECTION (2)(a)(I) OF THIS SECTION IF:

16 (A) THE COMMISSION HAS DETERMINED THAT THE TRANSMISSION
17 UTILITY HAS MADE ALL REASONABLE EFFORTS TO COMPLY WITH THE
18 REQUIREMENT BUT THERE IS NO VIABLE AND AVAILABLE OWM THAT THE
19 TRANSMISSION UTILITY CAN JOIN BY JANUARY 1, 2030; AND

20 (B) THE COMMISSION HAS DETERMINED, BASED ON THE STUDY
21 CONDUCTED IN ACCORDANCE WITH ARTICLE 2.3 OF THIS TITLE 40, THAT
22 REQUIRING THE TRANSMISSION UTILITY TO JOIN AN OWM IS NOT IN THE
23 PUBLIC INTEREST.

24 (b) THE COMMISSION IS DIRECTED TO PARTICIPATE ON BEHALF OF
25 THE STATE OF COLORADO, AS IT DEEMS APPROPRIATE, IN PROCEEDINGS
26 BEFORE THE FERC INVOLVING THE MANAGEMENT OF PHYSICAL
27 CONNECTIONS, SHARING OF DATA, AND INTERPRETATION AND

1 IMPLEMENTATION OF TARIFF AND BUSINESS PRACTICES BETWEEN OWMs
2 WHOSE BOUNDARIES MEET WITHIN COLORADO.

3 (3) THE COMMISSION SHALL CONSIDER ALLOWING, AND MAY
4 ALLOW, A TRANSMISSION UTILITY THAT JOINS AN OWM TO RECOVER
5 OWM SUBSCRIPTION FEES AND OTHER PRUDENTLY INCURRED COSTS OF
6 PARTICIPATION IN THE OWM THROUGH RATES OR THROUGH A NEW OR
7 EXISTING TRANSMISSION RIDER.

8 **SECTION 3.** In Colorado Revised Statutes, 40-15-601, **amend**
9 **(6); and add (6.5) as follows:**

10 **40-15-601. Definitions.** As used in this part 6, unless the context
11 otherwise requires:

12 (6) "Electric utility" means a cooperative electric association, as
13 defined in section 40-9.5-102 HAS THE MEANING SET FORTH IN SECTION
14 40-42-102 (8).

15 (6.5) "GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC
16 ASSOCIATION" HAS THE SAME MEANING AS "WHOLESALE ELECTRIC
17 COOPERATIVE" AS SET FORTH IN SECTION 40-2-136 (3)(c).

18 **SECTION 4.** In Colorado Revised Statutes, **add** article 42 to title
19 40 as follows:

20 **ARTICLE 42**

21 **Colorado Electric Transmission Authority Act**

22 **40-42-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 42 IS
23 THE "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT".

24 **40-42-102. Definitions.** AS USED IN THIS ARTICLE 42, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "ACQUIRE" MEANS TO OBTAIN ELIGIBLE FACILITIES BY LEASE,
27 CONSTRUCTION, RECONSTRUCTION, PURCHASE, OR, AS AUTHORIZED BY

1 SECTION 40-42-104 (1)(p) AND SUBJECT TO THE REQUIREMENTS OF
2 ARTICLES 1 TO 7 OF TITLE 38, THE EXERCISE OF THE POWER OF EMINENT
3 DOMAIN.

4 (2) "AUTHORITY" MEANS THE COLORADO ELECTRIC TRANSMISSION
5 AUTHORITY CREATED IN SECTION 40-42-103.

6 (3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
7 AUTHORITY.

8 (4) "BONDS" MEANS ELECTRIC TRANSMISSION BONDS ISSUED AS
9 AUTHORIZED BY THIS ARTICLE 42 AND INCLUDES NOTES, WARRANTS,
10 BONDS, TEMPORARY BONDS, AND ANTICIPATION NOTES ISSUED BY THE
11 AUTHORITY.

12 (5) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION
13 CREATED IN SECTION 40-2-101.

14 (6) "ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND" OR
15 "OPERATIONAL FUND" MEANS THE FUND CREATED IN SECTION 40-42-106.

16 (7) "ELECTRIC TRANSMISSION BONDING FUND" OR "BONDING
17 FUND" MEANS THE FUND CREATED IN SECTION 40-42-105 (3).

18 (8) "ELECTRIC UTILITY" MEANS AN ENTITY, OTHER THAN AN
19 INVESTOR-OWNED ENTITY, OPERATING FOR THE PURPOSE OF SUPPLYING OR
20 TRANSMITTING ELECTRICITY TO THE PUBLIC FOR DOMESTIC, MECHANICAL,
21 OR PUBLIC USES AND INCLUDES A MUNICIPALLY OWNED UTILITY, A
22 TRANSMISSION UTILITY, AS DEFINED IN SECTION 40-5-108 (1)(b), A
23 COOPERATIVE ELECTRIC ASSOCIATION, A NONPROFIT ELECTRIC
24 CORPORATION OR ASSOCIATION, AND EVERY OTHER
25 NON-INVESTOR-OWNED, VERTICALLY INTEGRATED SUPPLIER OF ELECTRIC
26 ENERGY SUPPLYING ELECTRIC ENERGY FOR ITS CUSTOMERS OR FOR THE
27 USE OF ITS OWN MEMBERS.

1 (9) "ELIGIBLE FACILITIES" MEANS FACILITIES THAT ARE FINANCED
2 OR ACQUIRED BY THE AUTHORITY.

3 (10) "FACILITIES" MEANS ELECTRIC TRANSMISSION FACILITIES AND
4 ALL RELATED STRUCTURES, PROPERTIES, AND SUPPORTING
5 INFRASTRUCTURE, INCLUDING ANY INTERESTS THEREIN. THE TERM DOES
6 NOT INCLUDE INTERCONNECTION FACILITIES FROM AN ELECTRIC
7 GENERATOR, OR FROM A STORAGE PROJECT THAT IS USED FOR ELECTRIC
8 GENERATION, TO A FACILITY.

9 (11) "FERC" MEANS THE FEDERAL ENERGY REGULATORY
10 COMMISSION.

11 (12) "FINANCE" OR "FINANCING" MEANS THE LENDING OF BOND
12 PROCEEDS BY THE AUTHORITY TO A PUBLIC UTILITY OR OTHER PRIVATE
13 PERSON FOR THE PURPOSE OF PLANNING, ACQUIRING, OPERATING, AND
14 MAINTAINING ELIGIBLE FACILITIES IN WHOLE OR IN PART BY THE PUBLIC
15 UTILITY OR OTHER PRIVATE PERSON.

16 (13) "LOCAL GOVERNMENT" MEANS A COUNTY, HOME RULE OR
17 STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND
18 COUNTY.

19 (14) "PROJECT" MEANS AN UNDERTAKING BY THE AUTHORITY TO
20 FINANCE OR TO PLAN, ACQUIRE, MAINTAIN, AND OPERATE ELIGIBLE
21 FACILITIES LOCATED PARTLY OR ENTIRELY WITHIN COLORADO.

22 (15) "STORAGE" HAS THE SAME MEANING AS "ENERGY STORAGE
23 SYSTEM" AS DEFINED IN SECTION 40-2-130 (2)(a).

24 **40-42-103. Authority - creation - board - open meetings and**
25 **open records.** (1) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
26 IS HEREBY CREATED AS AN INDEPENDENT PUBLIC BODY POLITIC AND
27 CORPORATE. THE AUTHORITY IS A PUBLIC INSTRUMENTALITY, AND ITS

1 EXERCISE OF THE POWERS AS AUTHORIZED BY THIS ARTICLE 42 IS THE
2 PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. THE AUTHORITY IS A
3 POLITICAL SUBDIVISION OF THE STATE, IS NOT AN AGENCY OF STATE
4 GOVERNMENT, AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY
5 ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

6 (2) (a) THE POWERS OF THE AUTHORITY ARE VESTED IN A BOARD
7 OF DIRECTORS, WHICH CONSISTS OF THE FOLLOWING NINE MEMBERS:

8 (I) TWO MEMBERS APPOINTED BY THE GOVERNOR WITH THE
9 CONSENT OF THE SENATE;

10 (II) THE DIRECTOR OF THE COLORADO ENERGY OFFICE CREATED
11 IN SECTION 24-38.5-101 OR THE DIRECTOR'S DESIGNEE;

12 (III) THREE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
13 OF REPRESENTATIVES; AND

14 (IV) THREE MEMBERS APPOINTED BY THE PRESIDENT OF THE
15 SENATE.

16 (b) THE APPOINTED MEMBERS OF THE BOARD MUST HAVE THE
17 FOLLOWING QUALIFICATIONS:

18 (I) OF THE MEMBERS APPOINTED BY THE GOVERNOR, ONE MUST
19 HAVE EXPERTISE IN FINANCIAL MATTERS INVOLVING THE FINANCING OF
20 MAJOR ELECTRIC TRANSMISSION PROJECTS AND THE OTHER MUST
21 REPRESENT THE INTERESTS OF ELECTRIC UTILITY CUSTOMERS RESIDING
22 WEST OF THE CONTINENTAL DIVIDE;

23 (II) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
24 OF REPRESENTATIVES, ONE MUST HAVE UTILITY EXPERIENCE;

25 (III) OF THE MEMBERS APPOINTED BY THE PRESIDENT OF THE
26 SENATE, ONE MUST REPRESENT THE INTERESTS OF WILDLIFE
27 CONSERVATION AND LAND USE;

1 (IV) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
2 OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE:

3 (A) ONE MUST REPRESENT THE INTERESTS OF ORGANIZED LABOR;

4 (B) ONE MUST REPRESENT THE INTERESTS OF RESIDENTIAL
5 CUSTOMERS OF ELECTRIC UTILITIES;

6 (C) ONE MUST REPRESENT THE INTERESTS OF COMMERCIAL OR
7 INDUSTRIAL CUSTOMERS OF ELECTRIC UTILITIES; AND

8 (D) ONE MUST HAVE KNOWLEDGE OF RENEWABLE ENERGY
9 DEVELOPMENT.

10 (c) A MEMBER OF THE BOARD SHALL NOT REPRESENT A PERSON
11 THAT OWNS OR OPERATES FACILITIES.

12 (d) BOARD MEMBERS SHALL SERVE FOUR-YEAR TERMS; EXCEPT
13 THAT, OF THE APPOINTED MEMBERS INITIALLY APPOINTED TO THE BOARD,
14 ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
15 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
16 REPRESENTATIVES SHALL SERVE INITIAL TERMS OF THREE YEARS AND ONE
17 OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
18 MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE SHALL SERVE
19 INITIAL TERMS OF TWO YEARS. THE REMAINDER OF THE APPOINTED
20 MEMBERS INITIALLY APPOINTED TO THE BOARD SHALL SERVE FOUR-YEAR
21 TERMS. THEREAFTER, ALL APPOINTED MEMBERS OF THE BOARD SHALL
22 SERVE FOUR-YEAR TERMS. A VACANCY IN THE MEMBERSHIP OF THE BOARD
23 MUST BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT
24 FOR THE REMAINDER OF THE EXPIRED TERM ONLY.

25 (e) AN APPOINTED MEMBER OF THE BOARD IS ELIGIBLE FOR
26 REAPPOINTMENT. AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF
27 THE BOARD FOR CAUSE.

1 (f) BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION FOR
2 THEIR SERVICES BUT SHALL BE REIMBURSED FOR THEIR REASONABLE AND
3 NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE
4 PERFORMANCE OF THEIR OFFICIAL DUTIES.

5 (3) THE MEMBERS OF THE BOARD SHALL ELECT A CHAIR AND A
6 VICE-CHAIR. FOUR MEMBERS OF THE BOARD CONSTITUTE A QUORUM.

7 (4) THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
8 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6 OF
9 TITLE 24, AND TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF
10 ARTICLE 72 OF TITLE 24. HOWEVER, INFORMATION OBTAINED BY THE
11 AUTHORITY THAT IS DESIGNATED BY THE BOARD AS PROPRIETARY
12 TECHNICAL OR BUSINESS INFORMATION IS CONFIDENTIAL AND IS NOT
13 SUBJECT TO INSPECTION PURSUANT TO THE "COLORADO OPEN RECORDS
14 ACT". INFORMATION THAT THE BOARD MAY DESIGNATE AS PROPRIETARY
15 CONFIDENTIAL INFORMATION INCLUDES POWER PURCHASE AGREEMENTS,
16 COSTS OF PRODUCTION, COSTS OF TRANSMISSION, TRANSMISSION SERVICE
17 AGREEMENTS, CREDIT REVIEWS, DETAILED POWER MODELS, AND
18 FINANCING STATEMENTS.

19 **40-42-104. General and specific powers and duties of the**
20 **authority.** (1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE 42, THE
21 AUTHORITY, ACTING THROUGH THE BOARD, HAS THE POWER TO:

22 (a) HOLD AND EXERCISE ALL RIGHTS, DUTIES, PRIVILEGES,
23 IMMUNITIES, LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND
24 A POLITICAL SUBDIVISION OF THE STATE;

25 (b) HAVE AN OFFICIAL SEAL AND ALTER THE SEAL AT THE BOARD'S
26 PLEASURE;

27 (c) ESTABLISH REASONABLE ADMINISTRATIVE AND PROCEDURAL

1 BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR
2 THE CONDUCT OF ITS AFFAIRS AND BUSINESS;

3 (d) MAINTAIN AN OFFICE AT ANY PLACE IN COLORADO THAT IT
4 MAY DETERMINE;

5 (e) ACQUIRE, HOLD, USE, OWN IN WHOLE OR IN PART, LEASE, RENT,
6 AND DISPOSE OF REAL AND PERSONAL PROPERTY AND ITS INCOME,
7 REVENUE, FUNDS, AND MONEY;

8 (f) SOLICIT AND RECEIVE AND EXPEND GIFTS, GRANTS, AND
9 DONATIONS;

10 (g) MAKE AND ENTER INTO ALL CONTRACTS, LEASES, AND
11 AGREEMENTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS AND
12 ASSIGNMENTS OF PAYMENTS TO HOST LANDOWNERS, THAT ARE
13 NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES AND THE
14 EXERCISE OF ITS POWERS UNDER THIS ARTICLE 42, INCLUDING:

15 (I) CONTRACTS TO PURCHASE AND DISPOSE OF ELIGIBLE
16 FACILITIES;

17 (II) CONTRACTS FOR THE LEASE AND OPERATION BY THE
18 AUTHORITY OF ELIGIBLE FACILITIES OWNED BY AN ELECTRIC UTILITY OR
19 OTHER PRIVATE PERSON; AND

20 (III) CONTRACTS FOR LEASING ELIGIBLE FACILITIES OWNED BY THE
21 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT THE AUTHORITY
22 DEPOSIT ANY REVENUE DERIVED PURSUANT TO THE LEASE INTO THE
23 ELECTRIC TRANSMISSION BONDING FUND;

24 (h) UNLESS OTHERWISE SPECIFICALLY PROHIBITED BY THIS
25 ARTICLE 42, DEPOSIT MONEY OF THE AUTHORITY IN ANY BANKING
26 INSTITUTION WITHIN OR OUTSIDE THE STATE;

27 (i) FIX THE TIME AND PLACE OR PLACES AT WHICH ITS REGULAR

1 AND SPECIAL MEETINGS ARE TO BE HELD;
2 (j) HIRE A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND
3 AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO HIRE OTHER STAFF AS
4 NECESSARY FOR THE OPERATION OF THE AUTHORITY;
5 (k) USE THE SERVICES OF EXECUTIVE DEPARTMENTS OF THE STATE
6 UPON MUTUALLY AGREEABLE TERMS AND CONDITIONS;
7 (l) ENTER INTO PARTNERSHIPS WITH PUBLIC OR PRIVATE ENTITIES;
8 (m) IDENTIFY AND ESTABLISH CORRIDORS FOR THE TRANSMISSION
9 OF ELECTRICITY WITHIN THE STATE, SUBJECT TO SITING AND LAND USE
10 APPROVAL BY THE LOCAL GOVERNMENT WITH SITING AND LAND USE
11 AUTHORITY PURSUANT TO ARTICLE 65.1 OF TITLE 24;
12 (n) THROUGH PARTICIPATION IN APPROPRIATE REGIONAL
13 TRANSMISSION FORUMS AND OTHER ORGANIZATIONS, INCLUDING
14 ORGANIZED WHOLESALE MARKETS, AS DEFINED IN SECTION 40-5-108
15 (1)(a), COORDINATE, INVESTIGATE, PLAN, PRIORITIZE, AND NEGOTIATE
16 WITH ENTITIES WITHIN AND OUTSIDE COLORADO FOR THE ESTABLISHMENT
17 OF INTERSTATE TRANSMISSION CORRIDORS AND ENGAGE IN OTHER
18 TRANSMISSION PLANNING ACTIVITIES THAT WOULD INCREASE GRID
19 RELIABILITY, HELP COLORADO MEET ITS CLEAN ENERGY GOALS, AND AID
20 IN ECONOMIC DEVELOPMENT;
21 (o) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS
22 SECTION, CONDUCT A TRANSPARENT AND COMPETITIVE PROCESS TO
23 SELECT A QUALIFIED TRANSMISSION OPERATOR, AS DEFINED BY THE
24 COMMISSION, TO ASSUME THE RESPONSIBILITY TO CARRY OUT ALL
25 REQUIRED FINANCING, PLANNING, ACQUISITION, MAINTENANCE, AND
26 OPERATION OF ELIGIBLE FACILITIES NECESSARY OR USEFUL FOR THE
27 ACCOMPLISHMENT OF THE PURPOSES OF THIS ARTICLE 42;

1 (p) SUBJECT TO THE REQUIREMENTS OF ARTICLES 1 TO 7 OF TITLE
2 38, HAVE AND EXERCISE THE POWER OF EMINENT DOMAIN FOR ACQUIRING
3 ANY PROPERTY OR RIGHTS-OF-WAY, EXCEPT PROPERTY OF AN ELECTRIC
4 UTILITY OR PROPERTY OR RIGHTS-OF-WAY OWNED BY A LOCAL
5 GOVERNMENT, NECESSARY FOR PROJECTS; EXCEPT THAT, IF LAND TO BE
6 ACQUIRED THROUGH EMINENT DOMAIN IS SUBJECT TO A PERPETUAL
7 CONSERVATION EASEMENT, THE AUTHORITY SHALL PAY COMPENSATION
8 TO THE OWNER AS THOUGH THE LAND WERE NOT SUBJECT TO A PERPETUAL
9 CONSERVATION EASEMENT.

10 (q) FOR ANY PROJECT, PROVIDE INFORMATION AND TRAINING TO
11 EMPLOYEES OF THE PROJECT REGARDING:

12 (I) ANY UNIQUE HAZARDS THAT MAY BE POSED BY THE PROJECT;

13 (II) SAFE WORK PRACTICES; AND

14 (III) EMERGENCY PROCEDURES;

15 (r) ISSUE BONDS AS NECESSARY TO UNDERTAKE A PROJECT;

16 (s) COLLECT PAYMENTS OF REASONABLE RATES, FEES, INTEREST,
17 OR OTHER CHARGES FROM PERSONS USING ELIGIBLE FACILITIES TO
18 FINANCE ELIGIBLE FACILITIES AND FOR OTHER SERVICES RENDERED BY THE
19 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT ANY REVENUE DERIVED
20 FROM PAYMENTS MADE TO THE AUTHORITY SHALL BE DEPOSITED IN THE
21 ELECTRIC TRANSMISSION BONDING FUND;

22 (t) MAKE DETERMINATIONS ABOUT THE EFFICIENT USE OF EXISTING
23 RIGHTS-OF-WAY ON PROJECTS IT PROPOSES TO DEVELOP AS A
24 PRECONDITION TO PIONEERING NEW RIGHTS-OF-WAY FOR SUCH PROJECTS;

25 (u) CONSIDER OPTIONS AND ALTERNATIVES, INCLUDING THROUGH
26 STUDIES CONTRACTED WITH INDEPENDENT EXPERT ANALYSTS, TO
27 INCREASE THE EFFICIENT USE OF THE TRANSMISSION SYSTEM AND RELIEVE

1 CONSTRAINTS ON THE TRANSMISSION SYSTEM, WHICH OPTIONS AND
2 ALTERNATIVES MAY INCLUDE STORAGE AND ADVANCED TRANSMISSION
3 TECHNOLOGIES; AND

4 (v) DO ANY AND ALL THINGS NECESSARY OR CONVENIENT TO
5 CARRY OUT ITS PURPOSES AND EXERCISE THE POWERS GIVEN AND
6 GRANTED IN THIS ARTICLE 42.

7 (2) EXCEPT AS PROVIDED IN THIS SUBSECTION (2), THE AUTHORITY
8 SHALL NOT ENTER INTO A PROJECT IF AN ELECTRIC UTILITY OR A
9 NONINCUMBENT TRANSMISSION PROVIDER OR OTHER ENTITY IS
10 CONSTRUCTING OR HAS CONSTRUCTED THE FACILITIES OR IS PROVIDING
11 THE SERVICES CONTEMPLATED BY THE AUTHORITY. BEFORE THE
12 AUTHORITY ENTERS INTO A PROJECT, THE FOLLOWING PROCEDURAL
13 REQUIREMENTS MUST BE MET:

14 (a) THE AUTHORITY SHALL PROVIDE TO EACH ELECTRIC UTILITY
15 AND THE COMMISSION AND PUBLISH AT LEAST ONCE IN A NEWSPAPER OF
16 GENERAL CIRCULATION IN COLORADO, AT LEAST ONCE IN A NEWSPAPER OF
17 GENERAL CIRCULATION IN THE AREA WHERE THE ELIGIBLE FACILITIES WILL
18 BE LOCATED, AND CONTINUOUSLY ON A PUBLICLY ACCESSIBLE WEB PAGE
19 MAINTAINED BY THE AUTHORITY AN INITIAL NOTICE DESCRIBING THE
20 PROJECT THAT THE AUTHORITY IS CONSIDERING.

21 (b) ANY PERSON WITH AN INTEREST THAT MAY BE AFFECTED BY
22 THE PROPOSED PROJECT HAS THIRTY DAYS AFTER THE DATE OF THE LAST
23 PRINTED PUBLICATION OF THE INITIAL NOTICE TO SUBMIT A WRITTEN
24 CHALLENGE CONCERNING THE PROPOSED PROJECT TO THE AUTHORITY. IF
25 THE AUTHORITY RECEIVES A CHALLENGE WITHIN THE THIRTY DAYS, THE
26 AUTHORITY SHALL HOLD A PUBLIC HEARING NO SOONER THAN THIRTY
27 DAYS AFTER RECEIVING THE CHALLENGE AND AT LEAST TWO WEEKS AFTER

1 POSTING NOTICE OF THE HEARING IN THE SAME NEWSPAPERS IN WHICH AND
2 WEB PAGE ON WHICH THE INITIAL NOTICE WAS GIVEN. FOLLOWING THE
3 PUBLIC HEARING, THE AUTHORITY SHALL MAKE A FINAL DETERMINATION
4 ON WHETHER THE AUTHORITY WILL IMPLEMENT THE PROPOSED PROJECT
5 AND GIVE NOTICE OF THE DETERMINATION IN THE SAME NEWSPAPERS AND
6 ON THE SAME WEB PAGE AS THE INITIAL NOTICE GIVEN. ANY PERSON OR
7 GOVERNMENTAL ENTITY PARTICIPATING IN THE HEARING MAY APPEAL THE
8 FINAL DETERMINATION BY FILING A NOTICE OF APPEAL WITH THE DISTRICT
9 COURT FOR THE CITY AND COUNTY OF DENVER WITHIN THIRTY-FIVE DAYS
10 AFTER THE DATE OF THE FINAL DETERMINATION.

11 (c) THE AUTHORITY SHALL COLLECT AND CONSIDER RELEVANT
12 DATA FROM DIVISION OF PARKS AND WILDLIFE'S STATE WILDLIFE ACTION
13 PLAN AND FROM THE COLORADO NATURAL HERITAGE PROGRAM
14 REGARDING WAYS IN WHICH THE PROJECT COULD CAUSE ADVERSE
15 ENVIRONMENTAL IMPACTS TO STATE AND FEDERALLY LISTED SPECIES, AS
16 WELL AS SPECIES, HABITATS, AND ECOSYSTEMS OF GREATEST
17 CONSERVATION NEED.

18 (d) ELECTRIC UTILITIES AND OTHER PERSONS WILLING AND ABLE
19 TO PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
20 FACILITIES DESCRIBED IN THE NOTICE HAVE THE FOLLOWING PERIOD
21 WITHIN WHICH TO NOTIFY THE AUTHORITY OF INTENTION AND ABILITY TO
22 PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
23 FACILITIES DESCRIBED IN THE NOTICE:

24 (I) WITHIN NINETY DAYS AFTER THE DATE OF THE LAST PRINTED
25 PUBLICATION OF THE INITIAL NOTICE IF NO CHALLENGE IS RECEIVED
26 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION; OR

27 (II) WITHIN NINETY DAYS AFTER THE DATE OF THE NOTICE OF

1 DETERMINATION IF A CHALLENGE IS RECEIVED PURSUANT TO SUBSECTION
2 (2)(b) OF THIS SECTION.

3 (e) ABSENT NOTIFICATION BY AN ELECTRIC UTILITY OR OTHER
4 PERSON PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION, OR IF A
5 PERSON, HAVING GIVEN NOTICE OF INTENTION TO PROVIDE MONEY FOR,
6 ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE FACILITIES
7 CONTEMPLATED BY THE AUTHORITY, FAILS TO MAKE A GOOD-FAITH
8 EFFORT TO BEGIN TO DO SO WITHIN SIX MONTHS AFTER THE DATE THE
9 PERSON NOTIFIED THE AUTHORITY OF ITS INTENTION, THE AUTHORITY MAY
10 PROCEED TO FINANCE, PLAN, ACQUIRE, MAINTAIN, AND OPERATE THE
11 ELIGIBLE FACILITIES ORIGINALLY CONTEMPLATED. HOWEVER, A PERSON
12 THAT, WITHIN THE TIME REQUIRED, HAS MADE NECESSARY APPLICATIONS
13 TO ACQUIRE FEDERAL, STATE, LOCAL, OR PRIVATE PERMITS, CERTIFICATES,
14 OR OTHER APPROVALS NECESSARY TO ACQUIRE THE ELIGIBLE FACILITIES
15 IS DEEMED TO HAVE COMMENCED THE ACQUISITION AS LONG AS THE
16 PERSON DILIGENTLY PURSUES THE PERMITS, CERTIFICATES, OR OTHER
17 APPROVALS.

18 (3) IN SOLICITING AND ENTERING INTO CONTRACTS FOR THE
19 TRANSMISSION OR STORAGE OF ELECTRICITY, THE AUTHORITY AND ANY
20 PERSON LEASING OR OPERATING ELIGIBLE FACILITIES FINANCED OR
21 ACQUIRED BY THE AUTHORITY SHALL, IF PRACTICABLE, GIVE PRIORITY TO
22 THOSE CONTRACTS THAT WILL TRANSMIT OR STORE ELECTRICITY TO BE
23 SOLD AND CONSUMED IN COLORADO.

24 (4) NEITHER THE AUTHORITY NOR ANY ELIGIBLE FACILITIES
25 ACQUIRED BY THE AUTHORITY ARE SUBJECT TO THE SUPERVISION,
26 REGULATION, CONTROL, OR JURISDICTION OF THE COMMISSION.

27 (5) (a) OWNERSHIP OF ELIGIBLE FACILITIES BY THE AUTHORITY

1 MAY NOT EXCEED THE EXTENT AND DURATION NECESSARY OR USEFUL TO
2 PROMOTE THE PUBLIC INTEREST. BEFORE BECOMING AN OWNER OR
3 PARTIAL OWNER OF AN ELIGIBLE FACILITY, THE AUTHORITY SHALL
4 DEVELOP A PLAN IDENTIFYING:

5 (I) THE PUBLIC PURPOSES OF THE AUTHORITY'S OWNERSHIP;
6 (II) THE CONDITIONS THAT WOULD MAKE THE AUTHORITY'S
7 OWNERSHIP NO LONGER NECESSARY FOR ACCOMPLISHING THOSE PUBLIC
8 PURPOSES; AND

9 (III) A PLAN TO DIVEST THE AUTHORITY OF OWNERSHIP OF THE
10 FACILITY AS SOON AS ECONOMICALLY PRUDENT ONCE THOSE CONDITIONS
11 OCCUR, WHICH MAY INCLUDE DIVESTMENT BEFORE THE LINE IS ENERGIZED.

12 (b) FOR ELIGIBLE FACILITIES THAT ARE LEASED TO ANOTHER
13 ENTITY BY THE AUTHORITY, AT THE END OF THE LEASE, ABSENT DEFAULT
14 BY THE LESSEE, THE AUTHORITY SHALL CONVEY ITS INTEREST IN THE
15 FACILITIES TO THE LESSEE AT A PRICE THAT REFLECTS THE CURRENT FAIR
16 MARKET VALUE.

17 (c) ELIGIBLE FACILITIES OWNED BY THE AUTHORITY ARE SUBJECT
18 TO THE REQUIREMENTS OF VALUATION AND TAXATION AS SET FORTH IN
19 ARTICLES 4 AND 5 OF TITLE 39.

20 (d) NEITHER THE AUTHORITY NOR ANY ENERGY ASSETS OWNED OR
21 CONTROLLED BY THE AUTHORITY OR ANY ELECTRIC UTILITY, OTHER THAN
22 MUNICIPAL UTILITIES OR POWER AUTHORITIES, PURSUANT TO THIS ARTICLE
23 42 ARE EXEMPT FROM PROPERTY TAXES.

24 (6) (a) AN ELECTRIC UTILITY THAT IS SUBJECT TO RATE
25 REGULATION BY THE COMMISSION MAY RECOVER THE CAPITAL COST OF A
26 PROJECT UNDERTAKEN PURSUANT TO THIS ARTICLE 42 FROM ITS RETAIL
27 CUSTOMERS ONLY IF THE PROJECT HAS RECEIVED A CERTIFICATE OF PUBLIC

1 CONVENIENCE AND NECESSITY FROM THE COMMISSION. AN ELECTRIC
2 UTILITY THAT IS A MUNICIPALLY OWNED UTILITY EXEMPT FROM
3 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
4 PROJECT HAS BEEN APPROVED BY THE GOVERNING BODY OF THE
5 MUNICIPALITY. A COOPERATIVE ELECTRIC ASSOCIATION EXEMPT FROM
6 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
7 PROJECT HAS BEEN APPROVED BY THE BOARD OF DIRECTORS OF THE
8 COOPERATIVE ELECTRIC ASSOCIATION.

9 (b) COSTS ASSOCIATED WITH A PROJECT UNDERTAKEN PURSUANT
10 TO THIS ARTICLE 42 ARE NOT RECOVERABLE FROM RETAIL UTILITY
11 CUSTOMERS EXCEPT TO THE EXTENT THE COSTS ARE PRUDENTLY
12 INCURRED AND THE PROJECT IS USED AND USEFUL IN SERVING THOSE
13 CUSTOMERS.

14 (7) THE AUTHORITY MAY SELL ANY OF ITS FACILITIES TO A
15 COLORADO ELECTRIC UTILITY.

16 (8) THE AUTHORITY MAY PETITION THE FERC FOR A
17 CLARIFICATION OF THE EXCLUSIVE OR CONCURRENT JURISDICTION OF THE
18 FERC OVER ANY MATTER CONSIDERED OR ACTION TAKEN BY THE
19 AUTHORITY UNDER THIS ARTICLE 42. THE GENERAL ASSEMBLY DECLARES
20 ITS INTENT THAT THE AUTHORITY AND THE COMMISSION BE ABLE TO
21 CARRY OUT THEIR POWERS AND DUTIES TO THE BROADEST EXTENT
22 POSSIBLE, CONSISTENT WITH PRINCIPLES OF FEDERALISM, TO ACHIEVE THE
23 GOALS AND EFFECTUATE THE PURPOSES OF THIS ARTICLE 42.

24 (9) NOTHING IN THIS SECTION WAIVES OR SUPERSEDES THE
25 APPLICATION OF SECTION 29-20-108 OR 40-5-101 (3) TO A PROJECT
26 PROPOSED OR DEVELOPED BY THE AUTHORITY.

27 **40-42-105. Electric transmission bonds - conditions of issuance**

1 - electric transmission bonding fund creation - auditor examination
2 - payment from bonding fund - exemption from taxation. (1) THE
3 AUTHORITY MAY ISSUE AND SELL ELECTRIC TRANSMISSION BONDS,
4 PAYABLE SOLELY FROM THE ELECTRIC TRANSMISSION BONDING FUND, IN
5 COMPLIANCE WITH THIS ARTICLE 42 FOR THE PURPOSE OF ENTERING INTO
6 A PROJECT WHEN THE AUTHORITY DETERMINES THAT THE PROJECT IS
7 NEEDED. THIS ARTICLE 42 IS, WITHOUT REFERENCE TO ANY OTHER LAW,
8 FULL AUTHORITY FOR THE ISSUANCE AND SALE OF BONDS. BONDS HAVE
9 ALL THE QUALITIES OF INVESTMENT SECURITIES UNDER THE "UNIFORM
10 COMMERCIAL CODE", TITLE 4, AND SHALL NOT BE DEEMED INVALID FOR
11 ANY IRREGULARITY OR DEFECT OR BE CONTESTABLE IN THE HANDS OF
12 BONA FIDE PURCHASERS OR HOLDERS OF THE BONDS FOR VALUE.

13 (2) (a) BONDS MAY BE EXECUTED AND DELIVERED BY THE
14 AUTHORITY AT SUCH TIMES; MAY BE IN SUCH FORM AND DENOMINATIONS
15 AND INCLUDE SUCH TERMS AND MATURITIES; MAY BE SUBJECT TO
16 OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR
17 WITHOUT A PREMIUM; MAY BE IN FULLY REGISTERED FORM OR BEARER
18 FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH; MAY BEAR
19 SUCH CONVERSION PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS
20 AND AT SUCH TIMES NOT EXCEEDING THIRTY YEARS; MAY BE PAYABLE AT
21 SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE STATE; MAY
22 BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE
23 FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS
24 DETERMINED BY THE AUTHORITY OR ITS AGENTS, WITHOUT REGARD TO
25 ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE
26 STATE; MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR
27 THE AUTHORITY; MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED

1 BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR
2 MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL
3 SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER
4 OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME; MAY BE
5 IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
6 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF
7 THE AUTHORITY; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
8 WITH THIS ARTICLE 42, ALL AS PROVIDED IN THE RESOLUTION OF THE
9 AUTHORITY UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR
10 AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY
11 COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.

12 (b) (I) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH
13 PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED
14 BY THE BOARD, AND THE BOARD MAY PAY ALL FEES, EXPENSES, AND
15 COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
16 CONNECTION WITH THE SALE OF BONDS.

17 (II) THE BOARD MAY DELEGATE TO AN OFFICER OR AGENT OF THE
18 BOARD THE POWER TO:

19 (A) FIX THE DATE OF SALE OF BONDS;

20 (B) RECEIVE BIDS OR PROPOSALS;

21 (C) AWARD AND SELL BONDS;

22 (D) FIX INTEREST RATES; AND

23 (E) TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER
24 BONDS.

25 (III) THE AUTHORITY MAY REFUND ANY OUTSTANDING BONDS
26 PURSUANT TO ARTICLE 56 OF TITLE 11.

27 (IV) ALL BONDS AND ANY INTEREST COUPONS APPLICABLE TO THE

1 BONDS ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

2 (c) BONDS ARE EXEMPT FROM TAXATION BY THE STATE AND ANY
3 COUNTY, CITY AND COUNTY, MUNICIPALITY, OR OTHER POLITICAL
4 SUBDIVISION OF THE STATE.

5 (d) PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY
6 INVEST PUBLIC MONEY IN BONDS SO LONG AS THE BONDS SATISFY THE
7 INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF
8 TITLE 24.

9 (e) NEITHER A MEMBER OF THE BOARD NOR AN EMPLOYEE OF THE
10 AUTHORITY NOR ANY PERSON EXECUTING BONDS IS LIABLE PERSONALLY
11 ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY BY REASON OF
12 THE ISSUANCE OF THE BONDS.

13 (3) (a) (I) THE ELECTRIC TRANSMISSION BONDING FUND IS
14 CREATED IN THE AUTHORITY. THE BONDING FUND CONSISTS OF:

15 (A) REVENUE RECEIVED BY THE AUTHORITY FROM OPERATING OR
16 LEASING ELIGIBLE FACILITIES;

17 (B) FEES AND SERVICE CHARGES COLLECTED;

18 (C) BOND PROCEEDS;

19 (D) MONEY FROM PAYMENTS OF PRINCIPAL AND INTEREST ON
20 LOANS IF THE AUTHORITY HAS PROVIDED FINANCING FOR ELIGIBLE
21 FACILITIES; AND

22 (E) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
23 INVESTMENT OF MONEY IN THE BONDING FUND.

24 (II) THE AUTHORITY MAY CREATE SEPARATE ACCOUNTS WITHIN
25 THE BONDING FUND IN CONNECTION WITH ANY ISSUANCE OF BONDS AND
26 MAY DEPOSIT IN THE SEPARATE ACCOUNTS REVENUE RECEIVED BY THE
27 AUTHORITY FROM THE FINANCING OR LEASING OF ELIGIBLE FACILITIES.

1 ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A
2 TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE
3 ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
4 INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO
5 THE ACCOUNT.

6 (III) BALANCES IN THE BONDING FUND AT THE END OF ANY STATE
7 FISCAL YEAR REMAIN IN THE BONDING FUND, EXCEPT AS OTHERWISE
8 PROVIDED IN THIS SECTION.

9 (b) (I) MONEY IN THE BONDING FUND SHALL BE DEPOSITED IN A
10 BANK DESIGNATED BY THE AUTHORITY IN AN ACCOUNT OR ACCOUNTS AS
11 THE AUTHORITY MAY ESTABLISH. MONEY IN ACCOUNTS SHALL BE
12 WITHDRAWN ON THE ORDER OF PERSONS THE AUTHORITY MAY AUTHORIZE.
13 ALL DEPOSITS OF MONEY SHALL BE SECURED IN SUCH MANNER AS THE
14 AUTHORITY MAY DETERMINE.

15 (II) ALL FUNDS AND ACTIVITIES OF THE AUTHORITY, INCLUDING ITS
16 RECEIPTS, DISBURSEMENTS, CONTRACTS, LEASES, FUNDS, INVESTMENTS,
17 AND ANY OTHER RECORDS AND PAPERS RELATING TO ITS FINANCIAL
18 STANDING, ARE SUBJECT TO ANNUAL AUDIT, AT THE AUTHORITY'S
19 EXPENSE, IN ACCORDANCE WITH SECTION 29-1-603.

20 (c) MONEY IN THE BONDING FUND IS PLEDGED FOR THE PAYMENT
21 OF PRINCIPAL AND INTEREST ON BONDS ISSUED PURSUANT TO THIS ARTICLE
22 42. MONEY IN ANY SEPARATE ACCOUNT MAY BE PLEDGED SOLELY TO
23 PAYMENT OF THE BONDS FOR WHICH THE SEPARATE ACCOUNT WAS
24 CREATED. THE AUTHORITY MAY EXPEND MONEY IN THE BONDING FUND OR
25 A SEPARATE ACCOUNT FOR THE PURPOSE OF PAYING DEBT SERVICE,
26 INCLUDING REDEMPTION PREMIUMS, ON BONDS AND EXPENSES INCURRED
27 IN THE ISSUANCE, PAYMENT, AND ADMINISTRATION OF THE BONDS.

1 (4) TWICE ANNUALLY THE AUTHORITY SHALL ESTIMATE THE
2 AMOUNTS NEEDED TO MAKE DEBT SERVICE AND OTHER PAYMENTS ON
3 BONDS DURING THE NEXT TWELVE MONTHS FROM THE BONDING FUND AND
4 FROM ANY SEPARATE ACCOUNT CREATED IN THE BONDING FUND PLUS THE
5 AMOUNT THAT MAY BE NEEDED FOR ANY REQUIRED RESERVES OR OTHER
6 REQUIREMENTS AS MAY BE SET FORTH IN THE TRUST INDENTURE RELATED
7 TO THE BONDS. THE AUTHORITY SHALL TRANSFER TO THE ELECTRIC
8 TRANSMISSION AUTHORITY OPERATIONAL FUND ANY BALANCE IN THE
9 BONDING FUND OR ANY SEPARATE ACCOUNT CREATED IN THE BONDING
10 FUND ABOVE THE ESTIMATED AMOUNTS. PAYMENTS FOR ADMINISTRATIVE
11 COSTS SHALL BE DEPOSITED IN THE OPERATIONAL FUND.

12 (5) BONDS ARE PAYABLE SOLELY FROM THE BONDING FUND OR
13 FROM ANY SEPARATE ACCOUNT CREATED WITHIN THE BONDING FUND OR,
14 WITH THE APPROVAL OF THE BONDHOLDERS, SUCH OTHER SPECIAL FUNDS
15 AS MAY BE PROVIDED BY LAW, AND THE BONDS DO NOT CREATE AN
16 OBLIGATION OR INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF
17 ANY CONSTITUTIONAL PROVISION OR LAW. A BREACH OF A CONTRACTUAL
18 OBLIGATION INCURRED PURSUANT TO THIS ARTICLE 42 DOES NOT IMPOSE
19 A PECUNIARY LIABILITY OR A CHARGE UPON THE GENERAL CREDIT OR
20 TAXING POWER OF THE STATE.

21 (6) THE STATE PLEDGES THAT THE BONDING FUND, INCLUDING ANY
22 SEPARATE ACCOUNT WITHIN THE BONDING FUND, SHALL BE USED ONLY
23 FOR THE PURPOSES SPECIFIED IN THIS SECTION AND IS PLEDGED FIRST TO
24 REPAY BONDS ISSUED PURSUANT TO THIS ARTICLE 42. THE STATE FURTHER
25 PLEDGES THAT ANY LAW REQUIRING THE DEPOSIT OF REVENUE IN THE
26 BONDING FUND OR AUTHORIZING EXPENDITURES FROM THE BONDING FUND
27 SHALL NOT BE AMENDED OR REPEALED OR OTHERWISE MODIFIED SO AS TO

1 IMPAIR THE BONDS TO WHICH THE BONDING FUND IS DEDICATED AS
2 PROVIDED IN THIS SECTION.

3 **40-42-106. Electric transmission authority operational fund -**
4 **creation.** THE ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND
5 IS CREATED IN THE AUTHORITY. THE OPERATIONAL FUND CONSISTS OF
6 MONEY TRANSFERRED TO THE OPERATIONAL FUND PURSUANT TO SECTION
7 40-42-105 (4), ANY OTHER MONEY THAT THE AUTHORITY MAY TRANSFER
8 TO THE OPERATIONAL FUND, AND INTEREST AND INCOME DERIVED FROM
9 THE DEPOSIT AND INVESTMENT OF MONEY IN THE OPERATIONAL FUND. THE
10 AUTHORITY MAY EXPEND MONEY FROM THE OPERATIONAL FUND FOR THE
11 PURPOSE OF CARRYING OUT THIS ARTICLE 42, AND THE AUTHORITY MAY
12 ESTABLISH PROCEDURES TO ADMINISTER THE OPERATIONAL FUND IN
13 ACCORDANCE WITH THIS ARTICLE 42 AND ANY OTHER APPLICABLE
14 PROVISION OF STATE LAW.

15 **40-42-107. Labor standards - apprenticeship - supervision.**
16 (1) THE AUTHORITY SHALL ENSURE THAT, IN ANY CONSTRUCTION,
17 EXPANSION, OR MAINTENANCE OF FACILITIES UNDERTAKEN IN COLORADO
18 PURSUANT TO THIS ARTICLE 42, ALL LABOR IS PERFORMED EITHER BY THE
19 EMPLOYEES OF AN ELECTRIC UTILITY OR BY QUALIFIED CONTRACTORS, OR
20 BOTH, AND THAT, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF
21 THIS SECTION, AN ELECTRIC UTILITY NOT USE A CONTRACTOR UNLESS:

22 (a) THE CONTRACTOR IS CHOSEN FROM A LIST OF QUALIFIED
23 CONTRACTORS PREPARED AND UPDATED, AT LEAST ANNUALLY, BY THE
24 DEPARTMENT OF LABOR AND EMPLOYMENT; AND

25 (b) THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
26 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
27 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE

1 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE AND MEETING THE
2 ADDITIONAL CRITERIA SPECIFIED IN SUBSECTION (2) OF THIS SECTION;
3 EXCEPT THAT THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

- 4 (I) THE DESIGN, PLANNING, OR ENGINEERING OF THE FACILITIES;
- 5 (II) MANAGEMENT FUNCTIONS TO OPERATE THE FACILITIES; OR
- 6 (III) ANY WORK PERFORMED IN RESPONSE TO A WARRANTY CLAIM.

7 (2) To QUALIFY PURSUANT TO SUBSECTION (1) OF THIS SECTION,
8 AN APPRENTICESHIP PROGRAM MUST CERTIFY TO THE ENTITY
9 COMMISSIONING THE WORK THAT:

10 (a) ITS CURRICULUM INCLUDES REQUIREMENTS FOR COMPLETION
11 OF:

12 (I) AT LEAST SEVEN THOUSAND HOURS OF ON-THE-JOB TRAINING
13 TO ACHIEVE JOURNEYMEN LINEMAN STATUS, WITH AT LEAST SIX HUNDRED
14 FIFTY OF THOSE HOURS SPENT WORKING ON ENERGIZED POWER LINES AT
15 VOLTAGES OF AT LEAST SIX HUNDRED VOLTS; AND

16 (II) A CLASS IN ELECTRIC TRANSMISSION AND DISTRIBUTION
17 OFFERED BY THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH
18 ADMINISTRATION AND COMPRISING CONTENT SUBSTANTIALLY
19 EQUIVALENT TO THAT OF THE "OSHA 10" CLASS OFFERED DURING
20 CALENDAR YEAR 2021; AND

21 (b) SUPERVISION OF APPRENTICES MEETS THE FOLLOWING
22 STANDARDS:

23 (I) APPRENTICES MUST WORK UNDER THE SUPERVISION OF A
24 JOURNEYMAN LINEMAN AT ALL TIMES;

25 (II) THE RATIO OF APPRENTICES TO JOURNEYMAN LINEMEN DOES
26 NOT EXCEED FOUR TO ONE WHEN WORKING ON A TRANSMISSION LINE OR
27 OTHER EQUIPMENT THAT IS NOT ENERGIZED; AND

1 (III) THE RATIO OF APPRENTICES TO JOURNEYMAN LINEMEN DOES
2 NOT EXCEED TWO TO ONE WHEN WORKING ON A TRANSMISSION LINE OR
3 OTHER EQUIPMENT THAT IS ENERGIZED.

4 (3) THE REQUEST FOR PROPOSAL FOR ANY CONTRACT WORK ON
5 FACILITIES SUBJECT TO THIS SECTION MUST BE SUBMITTED TO THE LIST OF
6 QUALIFIED CONTRACTORS DESCRIBED IN SUBSECTION (1)(a) OF THIS
7 SECTION FOR AT LEAST SIXTY DAYS. IF NONE OF THE CONTRACTORS ON THE
8 LIST SUBMITS A QUALIFYING BID WITHIN SIXTY DAYS, THEN THE ENTITY
9 PROCURING THE WORK MAY SOLICIT BIDS FROM CONTRACTORS WHO ARE
10 NOT ON THE LIST BUT OTHERWISE QUALIFY UNDER THE TERMS OF THE
11 REQUEST FOR PROPOSAL SO LONG AS THOSE TERMS INCLUDE COMPLIANCE
12 WITH ALL APPLICABLE LAWS AND REGULATIONS RELATED TO SAFETY.

13 **40-42-108. Report to general assembly.** COMMENCING IN 2022,
14 THE AUTHORITY SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE
15 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
16 REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE
17 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, NOT LATER THAN
18 DECEMBER 1 OF EACH YEAR. THE REPORT SHALL SET FORTH A COMPLETE
19 OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF
20 THE AUTHORITY FOR THE PREVIOUS STATE FISCAL YEAR.
21 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO
22 SUBMIT THE REPORT CONTINUES INDEFINITELY.

23 **SECTION 5.** In Colorado Revised Statutes, **add 2-3-126 as**
24 follows:

25 **2-3-126. Performance audits of Colorado electric transmission**
26 **authority.** AT THE DISCRETION OF THE LEGISLATIVE AUDIT COMMITTEE,
27 THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A

1 PERFORMANCE AUDIT OF THE COLORADO ELECTRIC TRANSMISSION
2 AUTHORITY CREATED IN ARTICLE 42 OF TITLE 40. THE STATE AUDITOR
3 SHALL PREPARE A REPORT AND RECOMMENDATIONS ON EACH AUDIT
4 CONDUCTED AND SHALL PRESENT THE REPORT AND RECOMMENDATIONS
5 TO THE COMMITTEE. THE STATE AUDITOR SHALL PAY THE COSTS OF ANY
6 AUDIT CONDUCTED PURSUANT TO THIS SECTION.

7 **SECTION 6.** In Colorado Revised Statutes, 24-65.1-501, **add**
8 **(2)(d)** as follows:

9 **24-65.1-501. Permit for development in area of state interest**
10 **or to conduct an activity of state interest required. (2) (d) IF THE**
11 **DEVELOPMENT OR ACTIVITY INVOLVES THE CONSTRUCTION OR EXPANSION**
12 **OF TRANSMISSION FACILITIES FOR WHICH THE APPLICANT HAS SOUGHT A**
13 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE PUBLIC**
14 **UTILITIES COMMISSION PURSUANT TO SECTION 40-2-126, THE LOCAL**
15 **GOVERNMENT SHALL APPROVE OR DENY ISSUANCE OF THE PERMIT WITHIN**
16 **ONE HUNDRED EIGHTY DAYS AFTER THE APPLICATION IS DEEMED**
17 **COMPLETE AND PUBLIC NOTICE OF THE APPLICATION IS GIVEN. IF THE**
18 **LOCAL GOVERNMENT DOES NOT DENY ISSUANCE OF THE PERMIT WITHIN**
19 **THAT PERIOD, THE APPLICATION IS DEEMED APPROVED.**

20 **SECTION 7.** In Colorado Revised Statutes, 24-77-102, **amend**
21 **the introductory portion; and add (15)(b)(XIX) as follows:**

22 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
23 **the context otherwise requires:**

24 **(15) (b) "Special purpose authority" includes, but is not limited to:**
25 **(XIX) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY**
26 **CREATED IN SECTION 40-42-103 (1).**

27 **SECTION 8.** In Colorado Revised Statutes, 38-1-202, **amend**

1 (1)(f) introductory portion, (1)(f)(XXXIX), and (1)(f)(XL); and add
2 (1)(f)(XLI) as follows:

3 **38-1-202. Governmental entities, corporations, and persons**
4 **authorized to use eminent domain.** (1) The following governmental
5 entities, types of governmental entities, and public corporations, in
6 accordance with all procedural and other requirements specified in this
7 article 1 and articles 2 to 7 of this title 38 and to the extent and within any
8 time frame specified in the applicable authorizing statute, may exercise
9 the power of eminent domain:

10 (f) The following types of single purpose districts, special
11 districts, authorities, boards, commissions, and other governmental
12 entities that serve limited governmental purposes or that may exercise
13 eminent domain for limited purposes: ~~on behalf of a county, city and~~
14 county, city, or town:

15 (XXXIX) A regional transportation authority created pursuant to
16 section 43-4-603 C.R.S., as authorized in section 43-4-604 (1)(a)(IV);
17 C.R.S.; and

18 (XL) The Colorado aeronautical board created in section
19 43-10-104 C.R.S., as authorized in section 43-10-106 (1); C.R.S. AND

20 (XLI) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
21 CREATED IN SECTION 40-42-103 (1) AS AUTHORIZED IN SECTION 40-42-104
22 (1)(p).

23 **SECTION 9.** In Colorado Revised Statutes, 38-5-104, amend (1)
24 as follows:

25 **38-5-104. Right-of-way across private lands.** (1) Such A
26 telegraph, telephone, electric light, power, gas, or pipeline company, AN
27 ELECTRIC TRANSMISSION AUTHORITY, or ~~such~~ A city or town shall be IS

1 entitled to the right-of-way over or under the land, property, privileges,
2 rights-of-way, and easements of other persons and corporations and to the
3 right to erect its poles, wires, pipes, regulator stations, substations,
4 systems, and offices upon making just compensation therefor in the
5 manner provided by law. WHEN A RIGHT-OF-WAY IS TAKEN UNDER THIS
6 SECTION FOR AN INTERSTATE ELECTRIC TRANSMISSION LINE, THE COURT
7 SHALLEVALUATE PUBLIC PURPOSE IN LIGHT OF THE TRANSMISSION SYSTEM
8 AS A WHOLE, INCLUDING PUBLIC USE AND BENEFITS OCCURRING EITHER
9 WITHIN COLORADO OR AT A REGIONAL LEVEL. The rights granted by this
10 section and section 38-5-105 to such electric light, power, gas, or pipeline
11 companies or to such cities and towns shall not extend to the taking of
12 any portion of the right-of-way of a railroad company, except to the
13 extent of acquiring any necessary easement to cross the same or to serve
14 such railroad company with electric light, power, or gas service. The
15 rights granted by this section and section 38-5-105 to telegraph or
16 telephone companies shall not extend to the taking of any portion of the
17 right-of-way of a railroad company, except to the extent of acquiring any
18 easement which does not materially interfere with the existing use by the
19 railroad company, or except to the extent of acquiring any necessary
20 easement to cross the same or to serve such railroad company with
21 telegraph or telephone service.

22 **SECTION 10.** In Colorado Revised Statutes, 40-2-114, **amend**
23 (2) as follows:

24 **40-2-114. Disposition of fees collected - telecommunications**
25 **utility fund - fixed utility fund.** (2) (a) ~~Moneys~~ MONEY in the funds
26 created in subsection (1) of this section shall be expended only to defray
27 the full amount determined by the general assembly for:

1 (I) The administrative expenses of the commission for the
2 supervision and regulation of the public utilities paying the fees; and for

3 (II) The financing of the office of consumer counsel created in
4 article 6.5 of this title TITLE 40; AND

5 (III) WITH REGARD ONLY TO EXPENDITURES FROM THE PUBLIC
6 UTILITIES COMMISSION FIXED UTILITY FUND CREATED IN SUBSECTION
7 (1)(b) OF THIS SECTION, THE ADMINISTRATIVE EXPENSES, NOT TO EXCEED
8 FIVE HUNDRED THOUSAND DOLLARS ANNUALLY, INCURRED BY THE
9 COLORADO ELECTRIC TRANSMISSION AUTHORITY IN CARRYING OUT ITS
10 DUTIES UNDER ARTICLE 42 OF THIS TITLE 40. THE COLORADO ELECTRIC
11 TRANSMISSION AUTHORITY SHALL REMIT TO THE FIXED UTILITY FUND ANY
12 AMOUNTS IT RECEIVES IN EXCESS OF ITS ACTUAL ADMINISTRATIVE
13 EXPENSES PLUS A FIFTEEN PERCENT RESERVE MARGIN.

14 (b) The state treasurer shall retain any unexpended balance
15 remaining in either fund at the end of any fiscal year to defray the
16 administrative expenses of the commission during subsequent fiscal
17 years, and the executive director of the department of revenue shall take
18 any such unexpended balance into account when computing the
19 percentage upon which fees for the ensuing fiscal year will be based.

20 **SECTION 11. Applicability.** This act applies to conduct
21 occurring on or after the effective date of this act.

22 **SECTION 12. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety.