

SENATE COMMITTEE OF REFERENCE REPORT

March 16, 2021

Chair of Committee

Date

Committee on Transportation & Energy.

After consideration on the merits, the Committee recommends the following:

SB21-072 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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

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

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

13 (a) The construction or expansion:

14 (I) Is required to:

15 (A) Ensure the reliable delivery of electricity to Colorado
16 consumers, ~~or to~~ EITHER ALONE OR IN COMBINATION WITH THE
17 CONSUMERS OF OTHER STATES SERVED BY AN ORGANIZED WHOLESALE
18 MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); OR

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

22 (II) CAN REASONABLY ACCOMMODATE FUTURE EXPANSION,
23 THROUGH THE ADDITION OF MORE LINES OR GREATER CAPACITY, AS MAY

1 BE REQUIRED TO SUPPORT THE UTILITY'S PARTICIPATION IN AN ORGANIZED
2 WHOLESALE MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); and

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

14 (5) IN ANY CONSTRUCTION OR EXPANSION APPROVED PURSUANT
15 TO THIS SECTION, THE UTILITY SHALL USE ITS OWN EMPLOYEES OR
16 QUALIFIED CONTRACTORS, OR BOTH, BUT SHALL NOT USE A CONTRACTOR
17 UNLESS THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
18 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
19 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
20 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT
21 THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

22 (a) THE DESIGN, PLANNING, OR ENGINEERING OF THE
23 TRANSMISSION FACILITIES;

24 (b) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION
25 FACILITIES; OR

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

27 **SECTION 2.** In Colorado Revised Statutes, **add** 40-5-108 as
28 follows:

29 **40-5-108. Electric utility participation in organized wholesale**
30 **markets required - conditions - authority of commission - definitions.**

31 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
32 REQUIRES:

33 (a) (I) "ORGANIZED WHOLESALE MARKET" OR "OWM" MEANS AN
34 ENTITY ESTABLISHED FOR THE PURPOSE OF COORDINATING AND
35 EFFICIENTLY MANAGING THE DISPATCH AND TRANSMISSION OF
36 ELECTRICITY AMONG PUBLIC UTILITIES ON A MULTISTATE OR REGIONAL
37 BASIS AND THAT:

38 (A) IS APPROVED BY THE FEDERAL ENERGY REGULATORY
39 COMMISSION;

40 (B) EFFECTS SEPARATE CONTROL OF TRANSMISSION FACILITIES
41 FROM CONTROL OF GENERATION FACILITIES;



- 1 (C) IMPLEMENTS, TO THE EXTENT REASONABLY POSSIBLE, POLICIES
2 AND PROCEDURES DESIGNED TO MINIMIZE PANCAKED TRANSMISSION
3 RATES WITHIN COLORADO;
- 4 (D) IMPROVES, TO THE EXTENT REASONABLY POSSIBLE, SERVICE
5 RELIABILITY WITHIN COLORADO;
- 6 (E) ACHIEVES, TO THE EXTENT REASONABLY POSSIBLE, THE
7 OBJECTIVES OF AN OPEN AND COMPETITIVE ELECTRIC GENERATION
8 MARKETPLACE, ELIMINATION OF BARRIERS TO MARKET ENTRY, AND
9 PRECLUSION OF CONTROL OF BOTTLENECK ELECTRIC TRANSMISSION
10 FACILITIES IN THE PROVISION OF RETAIL ELECTRIC SERVICE;
- 11 (F) IS OF SUFFICIENT SCOPE OR OTHERWISE OPERATES TO
12 SUBSTANTIALLY INCREASE ECONOMICAL SUPPLY OPTIONS FOR
13 CUSTOMERS;
- 14 (G) HAS A STRUCTURE OF GOVERNANCE OR CONTROL THAT IS
15 INDEPENDENT OF THE OWNERSHIP AND OPERATION OF THE TRANSMISSION
16 FACILITIES, AND NO MEMBER OF ITS BOARD OF DIRECTORS HAS AN
17 AFFILIATION WITH A USER OR WITH AN AFFILIATE OF A USER DURING THE
18 MEMBER'S TENURE ON THE BOARD SO AS TO UNDULY AFFECT THE OWM'S
19 PERFORMANCE. AS USED IN THIS SUBSECTION (1)(a)(I)(G), "USER" MEANS
20 ANY ENTITY OR AFFILIATE OF THAT ENTITY THAT BUYS OR SELLS ELECTRIC
21 ENERGY IN THE OWM'S REGION OR IN A NEIGHBORING REGION.
- 22 (H) OPERATES UNDER POLICIES THAT PROMOTE POSITIVE
23 PERFORMANCE DESIGNED TO SATISFY THE ELECTRICITY REQUIREMENTS OF
24 CUSTOMERS;
- 25 (I) HAS AN INCLUSIVE AND OPEN STAKEHOLDER PROCESS THAT
26 DOES NOT PLACE UNREASONABLE BURDENS ON, OR PRECLUDE
27 MEANINGFUL PARTICIPATION BY, ANY STAKEHOLDER GROUP;
- 28 (J) PROMOTES AND ASSISTS NEW ECONOMIC DEVELOPMENT IN
29 COLORADO; AND
- 30 (K) CONSISTENT WITH AND IN SUPPORT OF FERC POLICIES AND
31 LOCAL PLANNING BY COLORADO PUBLIC UTILITIES, IS CAPABLE OF:
32 PLANNING FOR IMPROVED EFFICIENCY OF USE, FUTURE EXPANSION, AND
33 CONSIDERATION OF ALL OPTIONS FOR MEETING TRANSMISSION NEEDS;
34 PROVIDING EFFECTIVE COST ALLOCATIONS THAT REFLECT BENEFITS OF
35 TRANSMISSION INVESTMENTS; MAINTAINING REAL-TIME RELIABILITY OF
36 THE ELECTRIC TRANSMISSION SYSTEM; ENSURING COMPARABLE AND
37 NONDISCRIMINATORY TRANSMISSION ACCESS AND NECESSARY SERVICES;
38 MINIMIZING SYSTEM CONGESTION; AND FURTHER ADDRESSING REAL OR
39 POTENTIAL TRANSMISSION CONSTRAINTS.
- 40 (II) "ORGANIZED WHOLESALE MARKET" INCLUDES A REGIONAL
41 TRANSMISSION ORGANIZATION, ALSO KNOWN AS AN RTO, AND AN

1 INDEPENDENT SYSTEM OPERATOR, ALSO KNOWN AS AN ISO.

2 (b) "TRANSMISSION UTILITY" MEANS A PUBLIC UTILITY THAT:

3 (I) IS A WHOLESALE ELECTRICITY SUPPLIER; AND

4 (II) OWNS AND OPERATES ELECTRIC TRANSMISSION LINES CAPABLE

5 OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE HUNDRED

6 KILOVOLTS OR MORE.

7 (2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION

8 (2)(a)(II) OF THIS SECTION, AND EXCEPT FOR MUNICIPALLY OWNED

9 UTILITIES AND POWER AUTHORITIES, ALL COLORADO TRANSMISSION

10 UTILITIES SHALL JOIN AN ORGANIZED WHOLESALE MARKET ON OR BEFORE

11 JANUARY 1, 2030.

12 (II) UPON APPLICATION BY A TRANSMISSION UTILITY, THE

13 COMMISSION MAY WAIVE OR DELAY THE REQUIREMENT STATED IN

14 SUBSECTION (2)(a)(I) OF THIS SECTION IF:

15 (A) THE TRANSMISSION UTILITY HAS MADE ALL REASONABLE

16 EFFORTS TO COMPLY WITH THE REQUIREMENT BUT IS UNABLE TO FIND A

17 VIABLE AND AVAILABLE OWM THAT IT CAN JOIN BY JANUARY 1, 2030; OR

18 (B) THE COMMISSION HAS DETERMINED, BASED ON THE STUDY

19 CONDUCTED IN ACCORDANCE WITH ARTICLE 2.3 OF THIS TITLE 40, THAT

20 REQUIRING THE TRANSMISSION UTILITY TO JOIN AN OWM IS NOT IN THE

21 PUBLIC INTEREST.

22 (b) THE COMMISSION IS DIRECTED TO PARTICIPATE ON BEHALF OF

23 THE STATE OF COLORADO, AS IT DEEMS APPROPRIATE, IN PROCEEDINGS

24 BEFORE THE FERC INVOLVING THE MANAGEMENT OF PHYSICAL

25 CONNECTIONS, SHARING OF DATA, AND INTERPRETATION AND

26 IMPLEMENTATION OF TARIFF AND BUSINESS PRACTICES BETWEEN OWMs

27 WHOSE BOUNDARIES MEET WITHIN COLORADO.

28 (3) THE COMMISSION SHALL CONSIDER ALLOWING, AND MAY

29 ALLOW, A TRANSMISSION UTILITY THAT JOINS AN OWM TO RECOVER

30 OWM SUBSCRIPTION FEES AND OTHER PRUDENTLY INCURRED COSTS OF

31 PARTICIPATION IN THE OWM THROUGH RATES OR THROUGH A NEW OR

32 EXISTING TRANSMISSION RIDER.

33 **SECTION 3.** In Colorado Revised Statutes, 40-15-601, **amend**

34 **(6); and add (6.5) as follows:**

35 **40-15-601. Definitions.** As used in this part 6, unless the context

36 otherwise requires:

37 (6) "Electric utility" means:

38 (a) A cooperative electric association, as defined in section

39 40-9.5-102;

40 (b) A GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC

41 ASSOCIATION; OR



1 (c) THE FEDERAL WESTERN AREA POWER ADMINISTRATION WITHIN
2 THE UNITED STATES DEPARTMENT OF ENERGY.

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

6 **SECTION 4.** In Colorado Revised Statutes, **add** article 42 to title
7 40 as follows:

8 **ARTICLE 42**

9 **Colorado Electric Transmission Authority Act**

10 **40-42-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 42 IS
11 THE "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT".

12 **40-42-102. Definitions.** AS USED IN THIS ARTICLE 42, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "ACQUIRE" MEANS TO OBTAIN ELIGIBLE FACILITIES BY LEASE,
15 CONSTRUCTION, RECONSTRUCTION, PURCHASE, OR, AS AUTHORIZED BY
16 SECTION 40-42-104 (1)(q) AND SUBJECT TO THE REQUIREMENTS OF
17 ARTICLES 1 TO 7 OF TITLE 38, THE EXERCISE OF THE POWER OF EMINENT
18 DOMAIN.

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

21 (3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
22 AUTHORITY.

23 (4) "BONDS" MEANS ELECTRIC TRANSMISSION BONDS ISSUED AS
24 AUTHORIZED BY THIS ARTICLE 42 AND INCLUDES NOTES, WARRANTS,
25 BONDS, TEMPORARY BONDS, AND ANTICIPATION NOTES ISSUED BY THE
26 AUTHORITY.

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

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

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

33 (8) "ELECTRIC UTILITY" MEANS AN ENTITY OPERATING FOR THE
34 PURPOSE OF SUPPLYING OR TRANSMITTING ELECTRICITY TO THE PUBLIC
35 FOR DOMESTIC, MECHANICAL, OR PUBLIC USES AND INCLUDES AN
36 INVESTOR-OWNED ELECTRIC UTILITY SUBJECT TO REGULATION UNDER
37 ARTICLES 1 TO 7 OF THIS TITLE 40, A MUNICIPALLY OWNED UTILITY, A
38 TRANSMISSION UTILITY, AS DEFINED IN SECTION 40-5-108 (1)(b), A
39 COOPERATIVE ELECTRIC ASSOCIATION, A NONPROFIT ELECTRIC
40 CORPORATION OR ASSOCIATION, AND EVERY OTHER VERTICALLY
41 INTEGRATED SUPPLIER OF ELECTRIC ENERGY SUPPLYING ELECTRIC ENERGY

1 FOR ITS CUSTOMERS OR FOR THE USE OF ITS OWN MEMBERS.

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

4 (10) "FACILITIES" MEANS ELECTRIC TRANSMISSION FACILITIES AND
5 ALL RELATED STRUCTURES, PROPERTIES, AND SUPPORTING
6 INFRASTRUCTURE, INCLUDING ANY INTERESTS THEREIN. THE TERM DOES
7 NOT INCLUDE INTERCONNECTION FACILITIES FROM AN ELECTRIC
8 GENERATOR OR STORAGE PROJECT 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" MEANS THE CONSTRUCTION, EXPANSION, OR USE
23 OF AN ENERGY STORAGE SYSTEM, AS DEFINED IN SECTION 40-2-202 (2).

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
28 EXERCISE OF THE POWERS AS AUTHORIZED BY THIS ARTICLE 42 IS THE
29 PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. THE AUTHORITY IS A
30 POLITICAL SUBDIVISION OF THE STATE, IS NOT AN AGENCY OF STATE
31 GOVERNMENT, AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY
32 ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

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

35 (I) TWO MEMBERS APPOINTED BY THE GOVERNOR WITH THE
36 CONSENT OF THE SENATE;

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

39 (III) THREE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
40 OF REPRESENTATIVES; AND

41 (IV) THREE MEMBERS APPOINTED BY THE PRESIDENT OF THE



1 SENATE.

2 (b) THE APPOINTED MEMBERS OF THE BOARD MUST HAVE THE
3 FOLLOWING QUALIFICATIONS:

4 (I) OF THE MEMBERS APPOINTED BY THE GOVERNOR, ONE MUST
5 HAVE EXPERTISE IN FINANCIAL MATTERS INVOLVING THE FINANCING OF
6 MAJOR ELECTRIC TRANSMISSION PROJECTS AND THE OTHER MUST
7 REPRESENT THE INTERESTS OF ELECTRIC UTILITY CUSTOMERS RESIDING
8 WEST OF THE CONTINENTAL DIVIDE;

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

11 (III) OF THE MEMBERS APPOINTED BY THE PRESIDENT OF THE
12 SENATE, ONE MUST REPRESENT THE INTERESTS OF WILDLIFE
13 CONSERVATION AND LAND USE;

14 (IV) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
15 OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE:

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

17 (B) ONE MUST REPRESENT THE INTERESTS OF RESIDENTIAL
18 CUSTOMERS OF ELECTRIC UTILITIES;

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

21 (D) ONE MUST HAVE KNOWLEDGE OF RENEWABLE ENERGY
22 DEVELOPMENT.

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

25 (d) BOARD MEMBERS SHALL SERVE FOUR-YEAR TERMS; EXCEPT
26 THAT, OF THE APPOINTED MEMBERS INITIALLY APPOINTED TO THE BOARD,
27 ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
28 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
29 REPRESENTATIVES SHALL SERVE INITIAL TERMS OF THREE YEARS AND ONE
30 OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
31 MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE SHALL SERVE
32 INITIAL TERMS OF TWO YEARS. THE REMAINDER OF THE APPOINTED
33 MEMBERS INITIALLY APPOINTED TO THE BOARD SHALL SERVE FOUR-YEAR
34 TERMS. THEREAFTER, ALL APPOINTED MEMBERS OF THE BOARD SHALL
35 SERVE FOUR-YEAR TERMS. A VACANCY IN THE MEMBERSHIP OF THE BOARD
36 MUST BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT
37 FOR THE REMAINDER OF THE EXPIRED TERM ONLY.

38 (e) AN APPOINTED MEMBER OF THE BOARD IS ELIGIBLE FOR
39 REAPPOINTMENT. AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF
40 THE BOARD FOR CAUSE.

41 (f) BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION FOR

1 THEIR SERVICES BUT SHALL BE REIMBURSED FOR THEIR REASONABLE AND
2 NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE
3 PERFORMANCE OF THEIR OFFICIAL DUTIES.

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

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

18 **40-42-104. General and specific powers and duties of the**
19 **authority.** (1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE 42, THE
20 AUTHORITY, ACTING THROUGH THE BOARD, HAS THE POWER TO:

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

24 (b) SUE AND BE SUED;

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

27 (d) ESTABLISH REASONABLE ADMINISTRATIVE AND PROCEDURAL
28 BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR
29 THE CONDUCT OF ITS AFFAIRS AND BUSINESS;

30 (e) MAINTAIN AN OFFICE AT ANY PLACE IN COLORADO THAT IT
31 MAY DETERMINE;

32 (f) ACQUIRE, HOLD, USE, OWN IN WHOLE OR IN PART, LEASE, RENT,
33 AND DISPOSE OF REAL AND PERSONAL PROPERTY AND ITS INCOME,
34 REVENUE, FUNDS, AND MONEY;

35 (g) SOLICIT AND RECEIVE AND EXPEND GIFTS, GRANTS, AND
36 DONATIONS;

37 (h) MAKE AND ENTER INTO ALL CONTRACTS, LEASES, AND
38 AGREEMENTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS AND
39 ASSIGNMENTS OF PAYMENTS TO HOST LANDOWNERS, THAT ARE
40 NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES AND THE
41 EXERCISE OF ITS POWERS UNDER THIS ARTICLE 42, INCLUDING:

- 1 (I) CONTRACTS TO PURCHASE AND DISPOSE OF ELIGIBLE
2 FACILITIES;
- 3 (II) CONTRACTS FOR THE LEASE AND OPERATION BY THE
4 AUTHORITY OF ELIGIBLE FACILITIES OWNED BY AN ELECTRIC UTILITY OR
5 OTHER PRIVATE PERSON; AND
- 6 (III) CONTRACTS FOR LEASING ELIGIBLE FACILITIES OWNED BY THE
7 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT THE AUTHORITY
8 DEPOSIT ANY REVENUE DERIVED PURSUANT TO THE LEASE INTO THE
9 ELECTRIC TRANSMISSION BONDING FUND;
- 10 (i) UNLESS OTHERWISE SPECIFICALLY PROHIBITED BY THIS ARTICLE
11 42, DEPOSIT MONEY OF THE AUTHORITY IN ANY BANKING INSTITUTION
12 WITHIN OR OUTSIDE THE STATE;
- 13 (j) FIX THE TIME AND PLACE OR PLACES AT WHICH ITS REGULAR
14 AND SPECIAL MEETINGS ARE TO BE HELD;
- 15 (k) HIRE A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND
16 AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO HIRE OTHER STAFF AS
17 NECESSARY FOR THE OPERATION OF THE AUTHORITY;
- 18 (l) USE THE SERVICES OF EXECUTIVE DEPARTMENTS OF THE STATE
19 UPON MUTUALLY AGREEABLE TERMS AND CONDITIONS;
- 20 (m) ENTER INTO PARTNERSHIPS WITH PUBLIC OR PRIVATE ENTITIES;
- 21 (n) IDENTIFY AND ESTABLISH CORRIDORS FOR THE TRANSMISSION
22 OF ELECTRICITY WITHIN THE STATE, SUBJECT TO SITING AND LAND USE
23 APPROVAL BY THE LOCAL GOVERNMENT WITH SITING AND LAND USE
24 AUTHORITY PURSUANT TO ARTICLE 65.1 OF TITLE 24;
- 25 (o) THROUGH PARTICIPATION IN APPROPRIATE REGIONAL
26 TRANSMISSION FORUMS AND OTHER ORGANIZATIONS, INCLUDING
27 ORGANIZED WHOLESALE MARKETS, AS DEFINED IN SECTION 40-5-108
28 (1)(a), COORDINATE, INVESTIGATE, PLAN, PRIORITIZE, AND NEGOTIATE
29 WITH ENTITIES WITHIN AND OUTSIDE COLORADO FOR THE ESTABLISHMENT
30 OF INTERSTATE TRANSMISSION CORRIDORS AND ENGAGE IN OTHER
31 TRANSMISSION PLANNING ACTIVITIES THAT WOULD INCREASE GRID
32 RELIABILITY, HELP COLORADO MEET ITS CLEAN ENERGY GOALS, AND AID
33 IN ECONOMIC DEVELOPMENT;
- 34 (p) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS
35 SECTION, CONDUCT A TRANSPARENT AND COMPETITIVE PROCESS TO
36 SELECT A QUALIFIED TRANSMISSION OPERATOR, AS DEFINED BY THE
37 COMMISSION, TO ASSUME THE RESPONSIBILITY TO CARRY OUT ALL
38 REQUIRED FINANCING, PLANNING, ACQUISITION, MAINTENANCE, AND
39 OPERATION OF ELIGIBLE FACILITIES NECESSARY OR USEFUL FOR THE
40 ACCOMPLISHMENT OF THE PURPOSES OF THIS ARTICLE 42;
- 41 (q) SUBJECT TO THE REQUIREMENTS OF ARTICLES 1 TO 7 OF TITLE

1 38, HAVE AND EXERCISE THE POWER OF EMINENT DOMAIN FOR ACQUIRING
2 PROPERTY OR RIGHTS-OF-WAY, EXCEPT PROPERTY OR RIGHTS-OF-WAY
3 OWNED BY A LOCAL GOVERNMENT, IF NEEDED FOR PROJECTS AND IF THE
4 COMMISSION DETERMINES THAT THE ACQUISITION DOES NOT INVOLVE A
5 TAKING OF THE PROPERTY OF AN ELECTRIC UTILITY OR MATERIALLY
6 DIMINISH ELECTRIC SERVICE RELIABILITY OF THE TRANSMISSION SYSTEM
7 IN COLORADO; EXCEPT THAT, IF LAND TO BE ACQUIRED THROUGH EMINENT
8 DOMAIN IS SUBJECT TO A PERPETUAL CONSERVATION EASEMENT, THE
9 AUTHORITY SHALL PAY COMPENSATION TO THE OWNER AS THOUGH THE
10 LAND WERE NOT SUBJECT TO A PERPETUAL CONSERVATION EASEMENT.

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

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

14 (II) SAFE WORK PRACTICES; AND

15 (III) EMERGENCY PROCEDURES;

16 (s) ISSUE BONDS AS NECESSARY TO UNDERTAKE A PROJECT;

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

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

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

30 (2) EXCEPT AS PROVIDED IN THIS SUBSECTION (2), THE AUTHORITY
31 SHALL NOT ENTER INTO A PROJECT IF AN ELECTRIC UTILITY OR A
32 NONINCUMBENT TRANSMISSION PROVIDER OR OTHER ENTITY IS
33 CONSTRUCTING OR HAS CONSTRUCTED THE FACILITIES OR IS PROVIDING
34 THE SERVICES CONTEMPLATED BY THE AUTHORITY. BEFORE THE
35 AUTHORITY ENTERS INTO A PROJECT, THE FOLLOWING PROCEDURAL
36 REQUIREMENTS MUST BE MET:

37 (a) THE AUTHORITY SHALL PROVIDE TO EACH ELECTRIC UTILITY
38 AND THE COMMISSION AND PUBLISH AT LEAST ONCE IN A NEWSPAPER OF
39 GENERAL CIRCULATION IN COLORADO, AT LEAST ONCE IN A NEWSPAPER OF
40 GENERAL CIRCULATION IN THE AREA WHERE THE ELIGIBLE FACILITIES WILL
41 BE LOCATED, AND CONTINUOUSLY ON A PUBLICLY ACCESSIBLE WEB PAGE



1 MAINTAINED BY THE AUTHORITY AN INITIAL NOTICE DESCRIBING THE
2 PROJECT THAT THE AUTHORITY IS CONSIDERING.

3 (b) ANY PERSON WITH AN INTEREST THAT MAY BE AFFECTED BY
4 THE PROPOSED PROJECT HAS THIRTY DAYS AFTER THE DATE OF THE LAST
5 PRINTED PUBLICATION OF THE INITIAL NOTICE TO SUBMIT A WRITTEN
6 CHALLENGE CONCERNING THE PROPOSED PROJECT TO THE AUTHORITY. IF
7 THE AUTHORITY RECEIVES A CHALLENGE WITHIN THE THIRTY DAYS, THE
8 AUTHORITY SHALL HOLD A PUBLIC HEARING NO SOONER THAN THIRTY
9 DAYS AFTER RECEIVING THE CHALLENGE AND AT LEAST TWO WEEKS AFTER
10 POSTING NOTICE OF THE HEARING IN THE SAME NEWSPAPERS IN WHICH AND
11 WEB PAGE ON WHICH THE INITIAL NOTICE WAS GIVEN. FOLLOWING THE
12 PUBLIC HEARING, THE AUTHORITY SHALL MAKE A FINAL DETERMINATION
13 ON WHETHER THE AUTHORITY WILL IMPLEMENT THE PROPOSED PROJECT
14 AND GIVE NOTICE OF THE DETERMINATION IN THE SAME NEWSPAPERS AND
15 ON THE SAME WEB PAGE AS THE INITIAL NOTICE GIVEN. ANY PERSON OR
16 GOVERNMENTAL ENTITY PARTICIPATING IN THE HEARING MAY APPEAL THE
17 FINAL DETERMINATION BY FILING A NOTICE OF APPEAL WITH THE DISTRICT
18 COURT FOR THE CITY AND COUNTY OF DENVER WITHIN THIRTY-FIVE DAYS
19 AFTER THE DATE OF THE FINAL DETERMINATION.

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

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

29 (II) WITHIN NINETY DAYS AFTER THE DATE OF THE NOTICE OF
30 DETERMINATION IF A CHALLENGE IS RECEIVED PURSUANT TO SUBSECTION
31 (2)(b) OF THIS SECTION.

32 (d) ABSENT NOTIFICATION BY AN ELECTRIC UTILITY OR OTHER
33 PERSON PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, OR IF A
34 PERSON, HAVING GIVEN NOTICE OF INTENTION TO PROVIDE MONEY FOR,
35 ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE FACILITIES
36 CONTEMPLATED BY THE AUTHORITY, FAILS TO MAKE A GOOD-FAITH
37 EFFORT TO BEGIN TO DO SO WITHIN SIX MONTHS AFTER THE DATE THE
38 PERSON NOTIFIED THE AUTHORITY OF ITS INTENTION, THE AUTHORITY MAY
39 PROCEED TO FINANCE, PLAN, ACQUIRE, MAINTAIN, AND OPERATE THE
40 ELIGIBLE FACILITIES ORIGINALLY CONTEMPLATED. HOWEVER, A PERSON
41 THAT, WITHIN THE TIME REQUIRED, HAS MADE NECESSARY APPLICATIONS



1 TO ACQUIRE FEDERAL, STATE, LOCAL, OR PRIVATE PERMITS, CERTIFICATES,
2 OR OTHER APPROVALS NECESSARY TO ACQUIRE THE ELIGIBLE FACILITIES
3 IS DEEMED TO HAVE COMMENCED THE ACQUISITION AS LONG AS THE
4 PERSON DILIGENTLY PURSUES THE PERMITS, CERTIFICATES, OR OTHER
5 APPROVALS.

6 (3) IN SOLICITING AND ENTERING INTO CONTRACTS FOR THE
7 TRANSMISSION OR STORAGE OF ELECTRICITY, THE AUTHORITY AND ANY
8 PERSON LEASING OR OPERATING ELIGIBLE FACILITIES FINANCED OR
9 ACQUIRED BY THE AUTHORITY SHALL, IF PRACTICABLE, GIVE PRIORITY TO
10 THOSE CONTRACTS THAT WILL TRANSMIT OR STORE ELECTRICITY TO BE
11 SOLD AND CONSUMED IN COLORADO.

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

15 (5) (a) OWNERSHIP OF ELIGIBLE FACILITIES BY THE AUTHORITY
16 MAY NOT EXCEED THE EXTENT AND DURATION NECESSARY OR USEFUL TO
17 PROMOTE THE PUBLIC INTEREST. BEFORE BECOMING AN OWNER OR
18 PARTIAL OWNER OF AN ELIGIBLE FACILITY, THE AUTHORITY SHALL
19 DEVELOP A PLAN IDENTIFYING:

20 (I) THE PUBLIC PURPOSES OF THE AUTHORITY'S OWNERSHIP;

21 (II) THE CONDITIONS THAT WOULD MAKE THE AUTHORITY'S
22 OWNERSHIP NO LONGER NECESSARY FOR ACCOMPLISHING THOSE PUBLIC
23 PURPOSES; AND

24 (III) A PLAN TO DIVEST THE AUTHORITY OF OWNERSHIP OF THE
25 FACILITY AS SOON AS ECONOMICALLY PRUDENT ONCE THOSE CONDITIONS
26 OCCUR.

27 (b) FOR ELIGIBLE FACILITIES THAT ARE LEASED TO ANOTHER
28 ENTITY BY THE AUTHORITY, AT THE END OF THE LEASE, ABSENT DEFAULT
29 BY THE LESSEE, THE AUTHORITY SHALL CONVEY ITS INTEREST IN THE
30 FACILITIES TO THE LESSEE AT A PRICE THAT REFLECTS THE CURRENT FAIR
31 MARKET VALUE.

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

35 (d) NEITHER THE AUTHORITY NOR ANY ENERGY ASSETS OWNED OR
36 CONTROLLED BY THE AUTHORITY OR ANY ELECTRIC UTILITY, OTHER THAN
37 MUNICIPAL UTILITIES OR POWER AUTHORITIES, PURSUANT TO THIS ARTICLE
38 42 ARE EXEMPT FROM PROPERTY TAXES.

39 (6) (a) AN ELECTRIC UTILITY THAT IS SUBJECT TO RATE
40 REGULATION BY THE COMMISSION MAY RECOVER THE CAPITAL COST OF A
41 PROJECT UNDERTAKEN PURSUANT TO THIS ARTICLE 42 FROM ITS RETAIL

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

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

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

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

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

28 **40-42-105. Electric transmission bonds - conditions of issuance**
29 **- electric transmission bonding fund creation - auditor examination**
30 **- payment from bonding fund - exemption from taxation.** (1) THE
31 AUTHORITY MAY ISSUE AND SELL ELECTRIC TRANSMISSION BONDS,
32 PAYABLE SOLELY FROM THE ELECTRIC TRANSMISSION BONDING FUND, IN
33 COMPLIANCE WITH THIS ARTICLE 42 FOR THE PURPOSE OF ENTERING INTO
34 A PROJECT WHEN THE AUTHORITY DETERMINES THAT THE PROJECT IS
35 NEEDED. THIS ARTICLE 42 IS, WITHOUT REFERENCE TO ANY OTHER LAW,
36 FULL AUTHORITY FOR THE ISSUANCE AND SALE OF BONDS. BONDS HAVE
37 ALL THE QUALITIES OF INVESTMENT SECURITIES UNDER THE "UNIFORM
38 COMMERCIAL CODE", TITLE 4, AND SHALL NOT BE DEEMED INVALID FOR
39 ANY IRREGULARITY OR DEFECT OR BE CONTESTABLE IN THE HANDS OF
40 BONA FIDE PURCHASERS OR HOLDERS OF THE BONDS FOR VALUE.

41 (2) (a) BONDS MAY BE EXECUTED AND DELIVERED BY THE

1 AUTHORITY AT SUCH TIMES; MAY BE IN SUCH FORM AND DENOMINATIONS
2 AND INCLUDE SUCH TERMS AND MATURITIES; MAY BE SUBJECT TO
3 OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR
4 WITHOUT A PREMIUM; MAY BE IN FULLY REGISTERED FORM OR BEARER
5 FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH; MAY BEAR
6 SUCH CONVERSION PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS
7 AND AT SUCH TIMES NOT EXCEEDING THIRTY YEARS; MAY BE PAYABLE AT
8 SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE STATE; MAY
9 BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE
10 FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS
11 DETERMINED BY THE AUTHORITY OR ITS AGENTS, WITHOUT REGARD TO
12 ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE
13 STATE; MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR
14 THE AUTHORITY; MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED
15 BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR
16 MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL
17 SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER
18 OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME; MAY BE
19 IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
20 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF
21 THE AUTHORITY; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
22 WITH THIS ARTICLE 42, ALL AS PROVIDED IN THE RESOLUTION OF THE
23 AUTHORITY UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR
24 AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY
25 COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.

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

31 (II) THE BOARD MAY DELEGATE TO AN OFFICER OR AGENT OF THE
32 BOARD THE POWER TO:

- 33 (A) FIX THE DATE OF SALE OF BONDS;
- 34 (B) RECEIVE BIDS OR PROPOSALS;
- 35 (C) AWARD AND SELL BONDS;
- 36 (D) FIX INTEREST RATES; AND
- 37 (E) TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER
38 BONDS.

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

41 (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.
28 ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A
29 TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE
30 ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
31 INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO
32 THE ACCOUNT.

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

36 (b) (I) MONEY IN THE BONDING FUND SHALL BE DEPOSITED IN A
37 BANK DESIGNATED BY THE AUTHORITY IN AN ACCOUNT OR ACCOUNTS AS
38 THE AUTHORITY MAY ESTABLISH. MONEY IN ACCOUNTS SHALL BE
39 WITHDRAWN ON THE ORDER OF PERSONS THE AUTHORITY MAY AUTHORIZE.
40 ALL DEPOSITS OF MONEY SHALL BE SECURED IN SUCH MANNER AS THE
41 AUTHORITY MAY DETERMINE.



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

6 (c) MONEY IN THE BONDING FUND IS PLEDGED FOR THE PAYMENT
7 OF PRINCIPAL AND INTEREST ON BONDS ISSUED PURSUANT TO THIS ARTICLE
8 42. MONEY IN ANY SEPARATE ACCOUNT MAY BE PLEDGED SOLELY TO
9 PAYMENT OF THE BONDS FOR WHICH THE SEPARATE ACCOUNT WAS
10 CREATED. THE AUTHORITY MAY EXPEND MONEY IN THE BONDING FUND OR
11 A SEPARATE ACCOUNT FOR THE PURPOSE OF PAYING DEBT SERVICE,
12 INCLUDING REDEMPTION PREMIUMS, ON BONDS AND EXPENSES INCURRED
13 IN THE ISSUANCE, PAYMENT, AND ADMINISTRATION OF THE BONDS.

14 (4) TWICE ANNUALLY THE AUTHORITY SHALL ESTIMATE THE
15 AMOUNTS NEEDED TO MAKE DEBT SERVICE AND OTHER PAYMENTS ON
16 BONDS DURING THE NEXT TWELVE MONTHS FROM THE BONDING FUND AND
17 FROM ANY SEPARATE ACCOUNT CREATED IN THE BONDING FUND PLUS THE
18 AMOUNT THAT MAY BE NEEDED FOR ANY REQUIRED RESERVES OR OTHER
19 REQUIREMENTS AS MAY BE SET FORTH IN THE TRUST INDENTURE RELATED
20 TO THE BONDS. THE AUTHORITY SHALL TRANSFER TO THE ELECTRIC
21 TRANSMISSION AUTHORITY OPERATIONAL FUND ANY BALANCE IN THE
22 BONDING FUND OR ANY SEPARATE ACCOUNT CREATED IN THE BONDING
23 FUND ABOVE THE ESTIMATED AMOUNTS. PAYMENTS FOR ADMINISTRATIVE
24 COSTS SHALL BE DEPOSITED IN THE OPERATIONAL FUND.

25 (5) BONDS ARE PAYABLE SOLELY FROM THE BONDING FUND OR
26 FROM ANY SEPARATE ACCOUNT CREATED WITHIN THE BONDING FUND OR,
27 WITH THE APPROVAL OF THE BONDHOLDERS, SUCH OTHER SPECIAL FUNDS
28 AS MAY BE PROVIDED BY LAW, AND THE BONDS DO NOT CREATE AN
29 OBLIGATION OR INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF
30 ANY CONSTITUTIONAL PROVISION OR LAW. A BREACH OF A CONTRACTUAL
31 OBLIGATION INCURRED PURSUANT TO THIS ARTICLE 42 DOES NOT IMPOSE
32 A PECUNIARY LIABILITY OR A CHARGE UPON THE GENERAL CREDIT OR
33 TAXING POWER OF THE STATE.

34 (6) THE STATE PLEDGES THAT THE BONDING FUND, INCLUDING ANY
35 SEPARATE ACCOUNT WITHIN THE BONDING FUND, SHALL BE USED ONLY
36 FOR THE PURPOSES SPECIFIED IN THIS SECTION AND IS PLEDGED FIRST TO
37 REPAY BONDS ISSUED PURSUANT TO THIS ARTICLE 42. THE STATE FURTHER
38 PLEDGES THAT ANY LAW REQUIRING THE DEPOSIT OF REVENUE IN THE
39 BONDING FUND OR AUTHORIZING EXPENDITURES FROM THE BONDING FUND
40 SHALL NOT BE AMENDED OR REPEALED OR OTHERWISE MODIFIED SO AS TO
41 IMPAIR THE BONDS TO WHICH THE BONDING FUND IS DEDICATED AS

1 PROVIDED IN THIS SECTION.

2 **40-42-106. Electric transmission authority operational fund -**
3 **creation.** THE ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND
4 IS CREATED IN THE AUTHORITY. THE OPERATIONAL FUND CONSISTS OF
5 MONEY TRANSFERRED TO THE OPERATIONAL FUND PURSUANT TO SECTION
6 40-42-105 (4), ANY OTHER MONEY THAT THE AUTHORITY MAY TRANSFER
7 TO THE OPERATIONAL FUND, AND INTEREST AND INCOME DERIVED FROM
8 THE DEPOSIT AND INVESTMENT OF MONEY IN THE OPERATIONAL FUND. THE
9 AUTHORITY MAY EXPEND MONEY FROM THE OPERATIONAL FUND FOR THE
10 PURPOSE OF CARRYING OUT THIS ARTICLE 42, AND THE AUTHORITY MAY
11 ESTABLISH PROCEDURES TO ADMINISTER THE OPERATIONAL FUND IN
12 ACCORDANCE WITH THIS ARTICLE 42 AND ANY OTHER APPLICABLE
13 PROVISION OF STATE LAW.

14 **40-42-107. Labor standards - apprenticeship - supervision.**
15 (1) THE AUTHORITY SHALL ENSURE THAT, IN ANY CONSTRUCTION OR
16 EXPANSION OF FACILITIES UNDERTAKEN IN COLORADO PURSUANT TO THIS
17 ARTICLE 42, ALL LABOR IS PERFORMED EITHER BY THE EMPLOYEES OF AN
18 ELECTRIC UTILITY OR BY QUALIFIED CONTRACTORS, OR BOTH, AND THAT
19 AN ELECTRIC UTILITY NOT USE A CONTRACTOR UNLESS:

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

23 (b) THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
24 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
25 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
26 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE AND MEETING THE
27 ADDITIONAL CRITERIA SPECIFIED IN SUBSECTION (2) OF THIS SECTION;
28 EXCEPT THAT THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

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

32 (2) TO QUALIFY PURSUANT TO SUBSECTION (1) OF THIS SECTION,
33 AN APPRENTICESHIP PROGRAM MUST CERTIFY TO THE ENTITY
34 COMMISSIONING THE WORK THAT:

35 (a) ITS CURRICULUM INCLUDES REQUIREMENTS FOR COMPLETION
36 OF:

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

41 (II) A CLASS IN ELECTRIC TRANSMISSION AND DISTRIBUTION



1 OFFERED BY THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH
2 ADMINISTRATION AND COMPRISING CONTENT SUBSTANTIALLY
3 EQUIVALENT TO THAT OF THE "OSHA 10" CLASS OFFERED DURING
4 CALENDAR YEAR 2021; AND

5 (b) SUPERVISION OF APPRENTICES MEETS THE FOLLOWING
6 STANDARDS:

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

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

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

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

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

27 **2-3-126. Performance audits of Colorado electric transmission**
28 **authority.** AT THE DISCRETION OF THE LEGISLATIVE AUDIT COMMITTEE,
29 THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A
30 PERFORMANCE AUDIT OF THE COLORADO ELECTRIC TRANSMISSION
31 AUTHORITY CREATED IN ARTICLE 42 OF TITLE 40. THE STATE AUDITOR
32 SHALL PREPARE A REPORT AND RECOMMENDATIONS ON EACH AUDIT
33 CONDUCTED AND SHALL PRESENT THE REPORT AND RECOMMENDATIONS
34 TO THE COMMITTEE. THE STATE AUDITOR SHALL PAY THE COSTS OF ANY
35 AUDIT CONDUCTED PURSUANT TO THIS SECTION.

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

38 **24-65.1-501. Permit for development in area of state interest**
39 **or to conduct an activity of state interest required.** (2) (d) IF THE
40 DEVELOPMENT OR ACTIVITY INVOLVES THE CONSTRUCTION OR EXPANSION
41 OF TRANSMISSION FACILITIES FOR WHICH THE APPLICANT HAS SOUGHT A



1 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE PUBLIC
2 UTILITIES COMMISSION PURSUANT TO SECTION 40-2-126, THE LOCAL
3 GOVERNMENT SHALL APPROVE OR DENY ISSUANCE OF THE PERMIT WITHIN
4 ONE HUNDRED EIGHTY DAYS AFTER THE APPLICATION IS DEEMED
5 COMPLETE AND PUBLIC NOTICE OF THE APPLICATION IS GIVEN. IF THE
6 LOCAL GOVERNMENT DOES NOT DENY ISSUANCE OF THE PERMIT WITHIN
7 THAT PERIOD, THE APPLICATION IS DEEMED APPROVED.

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

10 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
11 the context otherwise requires:

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

15 **SECTION 8.** In Colorado Revised Statutes, 38-1-202, **amend**
16 (1)(f) introductory portion, (1)(f)(XXXIX), and (1)(f)(XL); and **add**
17 (1)(f)(XLI) as follows:

18 **38-1-202. Governmental entities, corporations, and persons**
19 **authorized to use eminent domain.** (1) The following governmental
20 entities, types of governmental entities, and public corporations, in
21 accordance with all procedural and other requirements specified in this
22 article 1 and articles 2 to 7 of this title 38 and to the extent and within any
23 time frame specified in the applicable authorizing statute, may exercise
24 the power of eminent domain:

25 (f) The following types of single purpose districts, special
26 districts, authorities, boards, commissions, and other governmental
27 entities that serve limited governmental purposes or that may exercise
28 eminent domain for limited purposes: ~~on behalf of a county, city and~~
29 ~~county, city, or town:~~

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

33 (XL) The Colorado aeronautical board created in section
34 43-10-104 ~~C.R.S.~~, as authorized in section 43-10-106 (1); ~~C.R.S.~~ AND

35 (XLI) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
36 CREATED IN SECTION 40-42-103 (1) AS AUTHORIZED IN SECTION 40-42-104
37 (1)(q).

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

40 **38-5-104. Right-of-way across private lands.** (1) Such A
41 telegraph, telephone, electric light, power, gas, or pipeline company, AN



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

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

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

29 (I) The administrative expenses of the commission for the
30 supervision and regulation of the public utilities paying the fees; ~~and for~~

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

33 (III) WITH REGARD ONLY TO EXPENDITURES FROM THE PUBLIC
34 UTILITIES COMMISSION FIXED UTILITY FUND CREATED IN SUBSECTION
35 (1)(b) OF THIS SECTION, THE ADMINISTRATIVE EXPENSES, NOT TO EXCEED
36 FIVE HUNDRED THOUSAND DOLLARS ANNUALLY, INCURRED BY THE
37 COLORADO ELECTRIC TRANSMISSION AUTHORITY IN CARRYING OUT ITS
38 DUTIES UNDER ARTICLE 42 OF THIS TITLE 40. THE COLORADO ELECTRIC
39 TRANSMISSION AUTHORITY SHALL REMIT TO THE FIXED UTILITY FUND ANY
40 AMOUNTS IT RECEIVES IN EXCESS OF ITS ACTUAL ADMINISTRATIVE
41 EXPENSES PLUS A FIFTEEN PERCENT RESERVE MARGIN.



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

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

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

12 Page 1, lines 105 and 106, strike "REGIONAL TRANSMISSION
13 ORGANIZATIONS," and substitute "ORGANIZED WHOLESALE MARKETS,".

** *** ** *** **

