

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0571.03 Jason Gelender x4330

HOUSE BILL 17-1339

HOUSE SPONSORSHIP

Hansen and Esgar,

SENATE SPONSORSHIP

(None),

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION FOR THE ISSUANCE OF LOW-COST**
102 **RATEPAYER-BACKED BONDS, AND CREATION OF THE COLORADO**
103 **ENERGY IMPACT ASSISTANCE AUTHORITY TO MITIGATE THE**
104 **IMPACTS OF POWER PLANT RETIREMENTS ON COLORADO**
105 **WORKERS AND COMMUNITIES.**

Bill Summary

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

The bill, known as the "Colorado Energy Impact Assistance Act", authorizes any investor-owned electric utility (utility) to apply to the

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

public utilities commission (PUC) for a financing order that will authorize the utility to issue low-cost Colorado energy impact assistance bonds (bonds) to lower the cost to electric utility customers (ratepayers) when the retirement of a power plant occurs. A portion of bond proceeds will provide transition assistance for Colorado workers and communities directly affected by the retirement of the facilities (transition assistance). To repay the bonds at the lowest cost to ratepayers, the PUC is authorized to review and approve a financing order and authorize a special energy impact assistance charge that is separate and apart from the utility's base rates on all ratepayer bills. The establishment and ongoing adjustment of the separate charge will allow bonds to achieve the highest possible credit rating, at least AA/Aa2, from the national independent credit rating agencies and will therefore allow bonds to be issued at the lowest possible interest rate and lowest subsequent cost to ratepayers.

Before issuing a financing order, the PUC must hold a public hearing, receive testimony from affected groups, and make specified determinations concerning the necessity, prudence, justness, reasonableness, and quantifiable benefits to utility ratepayers of issuing the financing order. After the public hearing process, if a financing order is approved by the PUC, it must include specific information and instructions for the utility to which it applies relating to the amount of bonds to be issued and the imposition of the energy impact assistance charge and must require the utility to pay a specified percentage of the net present value of the savings to a newly created Colorado energy impact assistance authority (authority) for the payment of transition assistance by the authority and the authority's reasonable and necessary administrative and operating costs. As an alternative to the financing order and bond issuance process, upon the closure of an electric generating facility, a Colorado electric utility may transfer to the authority an amount of up to 15% of the net present value of operational savings created by the closure of the electric generating facility, and such a transfer shall be deemed by the PUC to be a prudent action by the utility.

The bill specifies that the authority is governed by a 7-member board of directors appointed by the governor and specifies mandatory and suggested occupational experience for the directors. The authority is authorized to receive bond proceeds from a utility to which a financing order applies and use the bond proceeds to provide transition assistance and pay its reasonable and necessary administrative and operating costs.

Transition assistance is defined to include payment of retraining costs, including costs of apprenticeship programs and skilled worker retraining programs, for and financial assistance to directly displaced Colorado facility workers, compensation to Colorado local governments for lost property tax revenue directly resulting from the retirement of a facility, and similar payments, job retraining, assistance, and compensation for directly displaced Colorado workers and local

governments in areas that produce fuel used in the retired facility directly resulting from the elimination of the need for fuel at the facility. When determining how best to provide transition assistance to a local community, the authority must, in conjunction with each board of county commissioners, municipal governing body, and school district that includes all or a portion of the impacted community, establish and take into consideration the advice of a local advisory committee. The authority is subject to open meeting and open records requirements and is required to submit a report to specified committees of the general assembly that sets forth a complete and detailed financial and operating statement of the authority for any fiscal year for which the authority has provided transition assistance.

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

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

4 **ARTICLE 41**

5 **Colorado Energy Impact Assistance Act**

6 PART 1

7 ENERGY IMPACT ASSISTANCE BONDS

8 **40-41-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 41 IS
9 THE "COLORADO ENERGY IMPACT ASSISTANCE ACT".

10 **40-41-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
11 HEREBY FINDS AND DECLARES THAT:

12 (a) COLORADO'S ELECTRIC UTILITIES WILL CONTINUE TO FACE THE
13 NEED TO RETIRE EXISTING ELECTRIC GENERATING FACILITIES TO REDUCE
14 ELECTRICITY RATES FOR CUSTOMERS AND ENSURE THE HEALTH AND
15 WELL-BEING OF COLORADO'S NATURAL ENVIRONMENT AND RESIDENTS;

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

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

4 (d) COLORADO COMMUNITIES AND WORKERS MAY BE DIRECTLY
5 AFFECTED BY THE CLOSURE OF ELECTRIC GENERATING FACILITIES, AND IT
6 IS IN THE BEST INTEREST OF THE STATE TO ENSURE THAT COLORADO'S
7 WORKFORCE IS ABLE TO ADAPT TO THE STATE'S CHANGING ENERGY
8 PORTFOLIO;

9 (e) THERE ARE ALTERNATIVE FINANCING MECHANISMS USED BY
10 TWENTY-ONE OTHER STATES SINCE 1997 THAT WILL RESULT IN LOWER
11 COSTS TO ELECTRIC UTILITY CUSTOMERS, AND THE USE OF THESE
12 MECHANISMS CAN ENSURE THAT BOTH THE COSTS OF RETIRING ELECTRIC
13 GENERATING FACILITIES LOCATED IN THE STATE AND TRANSITION COSTS
14 FOR DIRECTLY AFFECTED COLORADO COMMUNITIES AND ELECTRIC
15 GENERATING FACILITY WORKERS CAN BE FINANCED IN A WAY THAT
16 REDUCES THE TOTAL AMOUNT OF COSTS BEING INCLUDED IN CUSTOMER
17 RATES;

18 (f) CUSTOMER COSTS OF ALTERNATIVE FINANCING MECHANISMS
19 CAN BE MINIMIZED BY ACHIEVING THE HIGHEST POSSIBLE CREDIT RATING
20 FROM INDEPENDENT CREDIT RATING AGENCIES, WHICH REQUIRES SPECIAL
21 PROCEDURES AND CONDITIONS INCLUDING:

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

24 (II) THE CREATION OF A PROPERLY STRUCTURED AND
25 IMPLEMENTED ADJUSTMENT MECHANISM TO ADJUST THE CHARGE
26 DEDICATED TO THE REPAYMENT OF THE BONDS TO ENABLE CONSISTENT,
27 ACCURATE, AND TIMELY REMITTANCES TO THE FINANCING ENTITIES FOR

1 THE BENEFIT OF BONDHOLDERS; AND

2 (III) A STATE PLEDGE THAT CONSTITUTES AN ENFORCEABLE
3 PROMISE TO GUARANTEE THE PAYMENT OF PRINCIPAL AND INTEREST ON
4 SECURITIZED INVESTOR-OWNED ELECTRIC UTILITY RATEPAYER-BACKED
5 BONDS AS THOSE AMOUNTS BECOME LEGALLY DUE AND OWING; AND

6 (g) TO IMPLEMENT THIS ALTERNATIVE FINANCING MECHANISM, IT
7 IS NECESSARY TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO
8 REVIEW AND APPROVE ONE OR MORE FINANCING ORDERS THAT ADVANCE
9 THESE GOALS IF IT DEEMS SUCH APPROVAL APPROPRIATE AND IN THE
10 INTEREST OF RATEPAYERS.

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

12 (a) IT IS THE POLICY OF THE STATE TO ASSIST COLORADO ELECTRIC
13 GENERATING FACILITY WORKERS WHO ARE DIRECTLY IMPACTED BY THE
14 RETIREMENT OF ELECTRIC GENERATING FACILITIES, THE COMMUNITIES
15 WHERE THE FACILITIES ARE LOCATED, AND THE COMMUNITIES WHERE
16 FUELS FOR THE FACILITIES ARE PRODUCED;

17 (b) IT IS THEREFORE IN THE INTEREST OF THE STATE AND ITS
18 CITIZENS TO ENCOURAGE AND FACILITATE THE USE OF SECURITIZED
19 RATEPAYER-BACKED BONDS AS A METHOD FOR ENABLING ELECTRIC
20 UTILITIES TO LOWER THE COST OF FINANCING THE RETIREMENT OF
21 ELECTRIC GENERATING FACILITIES UNDER CERTAIN CONDITIONS AND TO
22 EMPOWER THE PUBLIC UTILITIES COMMISSION TO REVIEW SUCH
23 SECURITIZATION MECHANISMS TO DETERMINE WHETHER THEY ARE
24 CONSISTENT WITH THE PUBLIC INTEREST AND WORTHY OF APPROVAL;

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

1 (I) TO PROVIDE TRANSITION ASSISTANCE TO COLORADO
2 COMMUNITIES AND ELECTRIC GENERATING FACILITY WORKERS THAT ARE
3 DIRECTLY IMPACTED BY THE RETIREMENT OF ELECTRIC GENERATING
4 FACILITIES;

5 (II) TO LOWER RATES PAID BY ELECTRIC UTILITY CUSTOMERS BY
6 REDUCING FINANCING COSTS OF CERTAIN RETIRED ELECTRIC GENERATING
7 FACILITIES; AND

8 (III) TO MAKE AVAILABLE CAPITAL INVESTMENT FOR MODERNIZED
9 FACILITIES AND SERVICES INCLUDING LEAST-COST ELECTRIC GENERATING
10 FACILITIES AND OTHER SUPPLY-SIDE AND DEMAND-SIDE RESOURCES; AND

11 (d) AN ADDITIONAL PURPOSE OF THIS ACT IS TO CREATE THE
12 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY TO ASSIST WITH THE
13 ADMINISTRATION OF THE PORTION OF SECURITIZED RATEPAYER-BACKED
14 BOND PROCEEDS THAT IS DEDICATED TO TRANSITION ASSISTANCE FOR
15 DIRECTLY IMPACTED COLORADO COMMUNITIES AND ELECTRIC
16 GENERATING FACILITY WORKERS.

17 **40-41-103. Definitions.** AS USED IN THIS ARTICLE 41, FOR USE BY
18 THE COMMISSION AND THE REVIEW BY INDEPENDENT CREDIT RATING
19 AGENCIES THAT IS NECESSARY TO ACHIEVE THE HIGHEST POSSIBLE BOND
20 RATINGS, UNLESS THE CONTEXT OTHERWISE REQUIRES:

21 (1) "ANCILLARY AGREEMENT" MEANS ANY BOND, INSURANCE
22 POLICY, LETTER OF CREDIT, RESERVE ACCOUNT, SURETY BOND, INTEREST
23 RATE LOCK OR SWAP ARRANGEMENT, HEDGING ARRANGEMENT, LIQUIDITY
24 OR CREDIT SUPPORT ARRANGEMENT, OR OTHER FINANCIAL ARRANGEMENT
25 ENTERED INTO IN CONNECTION WITH CO-EIA BONDS THAT IS DESIGNED TO
26 PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE CO-EIA
27 BONDS OR TO MITIGATE THE RISK OF AN INCREASE IN INTEREST RATES.

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

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

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

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

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

12 (7) "CO-EIA BONDS" MEANS LOW-COST CORPORATE SECURITIES,
13 SUCH AS SENIOR SECURED BONDS, DEBENTURES, NOTES, CERTIFICATES OF
14 PARTICIPATION, CERTIFICATES OF BENEFICIAL INTEREST, CERTIFICATES OF
15 OWNERSHIP, OR OTHER EVIDENCES OF INDEBTEDNESS OR OWNERSHIP THAT
16 HAVE A SCHEDULED MATURITY OF NO LONGER THAN THIRTY YEARS AND
17 A FINAL LEGAL MATURITY DATE THAT IS NOT LATER THAN THIRTY-TWO
18 YEARS FROM THE ISSUE DATE, THAT ARE RATED AA OR AA2 OR BETTER BY
19 A MAJOR INDEPENDENT CREDIT RATING AGENCY AT THE TIME OF
20 ISSUANCE, AND THAT ARE ISSUED BY AN ELECTRIC UTILITY OR AN
21 ASSIGNEE PURSUANT TO A FINANCING ORDER, THE PROCEEDS OF WHICH
22 ARE USED TO RECOVER, FINANCE, OR REFINANCE COMMISSION-APPROVED
23 CO-EIA COSTS AND FINANCING COSTS, INCLUDING ASSISTANCE TO
24 AFFECTED WORKERS AND COMMUNITIES, AND THAT ARE SECURED BY OR
25 PAYABLE FROM CO-EIA PROPERTY. IF CERTIFICATES OF PARTICIPATION OR
26 OWNERSHIP ARE ISSUED, REFERENCES IN THIS SECTION TO PRINCIPAL,
27 INTEREST, OR PREMIUM REFER TO COMPARABLE AMOUNTS UNDER THOSE

1 CERTIFICATES.

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

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

12 (I) (A) AT THE OPTION OF AND UPON PETITION BY AN ELECTRIC
13 UTILITY, AND AS APPROVED BY THE COMMISSION PURSUANT TO SECTION
14 40-41-105, THE PRETAX COSTS THAT THE ELECTRIC UTILITY HAS INCURRED
15 OR WILL INCUR THAT ARE CAUSED BY, ASSOCIATED WITH, OR REMAIN AS
16 A RESULT OF THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY
17 LOCATED IN THE STATE.

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

1 (II) AMOUNTS REQUIRED TO BE TRANSFERRED TO THE AUTHORITY
2 FOR TRANSITION ASSISTANCE AND THE PAYMENT OF THE AUTHORITY'S
3 REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS
4 REQUIRED BY A FINANCING ORDER.

5 (III) PRETAX COSTS THAT AN ELECTRIC UTILITY HAS PREVIOUSLY
6 INCURRED RELATED TO THE COMMISSION-APPROVED CLOSURE OF AN
7 ELECTRIC GENERATING FACILITY OCCURRING BEFORE THE EFFECTIVE DATE
8 OF THIS SECTION.

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

13 (10) "CO-EIA PROPERTY" MEANS:

14 (a) ALL RIGHTS AND INTERESTS OF AN ELECTRIC UTILITY OR
15 SUCCESSOR OR ASSIGNEE OF AN ELECTRIC UTILITY UNDER A FINANCING
16 ORDER FOR THE RIGHT TO IMPOSE, BILL, COLLECT, AND RECEIVE CO-EIA
17 CHARGES AS IT IS AUTHORIZED TO DO SOLELY UNDER THE FINANCING
18 ORDER AND TO OBTAIN PERIODIC ADJUSTMENTS TO SUCH CO-EIA
19 CHARGES AS PROVIDED IN THE FINANCING ORDER; AND

20 (b) ALL REVENUE, COLLECTIONS, CLAIMS, RIGHTS TO PAYMENTS,
21 PAYMENTS, MONEY, OR PROCEEDS ARISING FROM THE RIGHTS AND
22 INTERESTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION,
23 REGARDLESS OF WHETHER SUCH REVENUE, COLLECTIONS, CLAIMS, RIGHTS
24 TO PAYMENT, PAYMENTS, MONEY, OR PROCEEDS ARE IMPOSED, BILLED,
25 RECEIVED, COLLECTED, OR MAINTAINED TOGETHER WITH OR COMMINGLED
26 WITH OTHER REVENUE, COLLECTIONS, RIGHTS TO PAYMENT, PAYMENTS,
27 MONEY, OR PROCEEDS.

1 (11) "CO-EIA REVENUE" MEANS ALL REVENUE, RECEIPTS,
2 COLLECTIONS, PAYMENTS, MONEY, CLAIMS, OR OTHER PROCEEDS ARISING
3 FROM CO-EIA PROPERTY.

4 (12) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF
5 THE STATE OF COLORADO.

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

9 (14) "FINANCING COSTS" MEANS, IF APPROVED BY THE
10 COMMISSION IN A FINANCING ORDER, COSTS TO ISSUE, SERVICE, REPAY, OR
11 REFINANCE CO-EIA BONDS, WHETHER INCURRED OR PAID UPON ISSUANCE
12 OF THE CO-EIA BONDS OR OVER THE LIFE OF THE CO-EIA BONDS, AND
13 INCLUDES:

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

16 (b) ANY PAYMENT REQUIRED UNDER AN ANCILLARY AGREEMENT
17 AND ANY AMOUNT REQUIRED TO FUND OR REPLENISH A RESERVE ACCOUNT
18 OR OTHER ACCOUNTS ESTABLISHED UNDER THE TERMS OF ANY INDENTURE,
19 ANCILLARY AGREEMENT, OR OTHER FINANCING DOCUMENT PERTAINING TO
20 CO-EIA BONDS;

21 (c) ANY OTHER DEMONSTRABLE COSTS RELATED TO ISSUING,
22 SUPPORTING, REPAYING, REFUNDING, AND SERVICING CO-EIA BONDS,
23 INCLUDING, BUT NOT LIMITED TO, SERVICING FEES, ACCOUNTING AND
24 AUDITING FEES, TRUSTEE FEES, LEGAL FEES, CONSULTING FEES, FINANCIAL
25 ADVISOR FEES, ADMINISTRATIVE FEES, PLACEMENT AND UNDERWRITING
26 FEES, CAPITALIZED INTEREST, RATING AGENCY FEES, STOCK EXCHANGE
27 LISTING AND COMPLIANCE FEES, SECURITY REGISTRATION FEES, FILING

1 FEES, INFORMATION TECHNOLOGY PROGRAMMING COSTS, AND ANY OTHER
2 DEMONSTRABLE COSTS NECESSARY TO OTHERWISE ENSURE AND
3 GUARANTEE THE TIMELY PAYMENT OF CO-EIA BONDS OR OTHER
4 AMOUNTS OR CHARGES PAYABLE IN CONNECTION WITH CO-EIA BONDS;

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

7 (e) ANY STATE AND LOCAL TAXES, INCLUDING FRANCHISE, SALES
8 AND USE, AND OTHER TAXES OR SIMILAR CHARGES, INCLUDING, BUT NOT
9 LIMITED TO, REGULATORY ASSESSMENT FEES, WHETHER PAID, PAYABLE,
10 OR ACCRUED; AND

11 (f) ANY COSTS INCURRED BY THE COMMISSION TO HIRE AND
12 COMPENSATE ADDITIONAL TEMPORARY STAFF NEEDED TO PERFORM ITS
13 RESPONSIBILITIES UNDER THIS ARTICLE 41 AND ENGAGE SPECIALIZED
14 COUNSEL AND EXPERT CONSULTANTS EXPERIENCED IN SECURITIZED
15 INVESTOR-OWNED ELECTRIC UTILITY RATEPAYER-BACKED BOND
16 FINANCING SIMILAR TO CO-EIA BONDS.

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

1 (16) "FINANCING PARTY" MEANS HOLDERS OF CO-EIA BONDS AND
2 TRUSTEES, COLLATERAL AGENTS, ANY PARTY UNDER AN ANCILLARY
3 AGREEMENT, OR ANY OTHER PERSON ACTING FOR THE BENEFIT OF
4 HOLDERS OF CO-EIA BONDS.

5 (17) "FINANCING STATEMENT" HAS THE SAME MEANING AS SET
6 FORTH IN SECTION 4-9-102 (39).

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

11 (a) ALL EXISTING AND FUTURE CUSTOMERS RECEIVING
12 TRANSMISSION OR DISTRIBUTION SERVICE FROM THE ELECTRIC UTILITY OR
13 ITS SUCCESSORS OR ASSIGNEES UNDER COMMISSION-APPROVED RATE
14 SCHEDULES OR UNDER SPECIAL CONTRACTS, EVEN IF A CUSTOMER ELECTS
15 TO PURCHASE ELECTRICITY FROM AN ELECTRIC SUPPLIER OTHER THAN THE
16 UTILITY; AND

17 (b) ANY PERSON LOCATED WITHIN THE ELECTRIC UTILITY SERVICE
18 AREA THAT MAY SUBSEQUENTLY RECEIVE ELECTRIC TRANSMISSION OR
19 DISTRIBUTION SERVICE FROM ANOTHER ELECTRIC UTILITY OPERATING IN
20 THE SAME SERVICE AREA.

21 (19) "SUCCESSOR" MEANS, WITH RESPECT TO ANY LEGAL ENTITY,
22 ANOTHER LEGAL ENTITY THAT SUCCEEDS BY OPERATION OF LAW TO THE
23 RIGHTS AND OBLIGATIONS OF THE FIRST LEGAL ENTITY PURSUANT TO ANY
24 BANKRUPTCY, REORGANIZATION, RESTRUCTURING, OTHER INSOLVENCY
25 PROCEEDING, MERGER, ACQUISITION, CONSOLIDATION, OR SALE OR
26 TRANSFER OF ASSETS, WHETHER ANY OF THESE OCCUR DUE TO A
27 RESTRUCTURING OF THE ELECTRIC POWER INDUSTRY OR OTHERWISE.

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

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

12 (b) FINANCIAL ASSISTANCE FOR DIRECTLY DISPLACED ELECTRIC
13 GENERATING FACILITY WORKERS;

14 (c) FOR A PERIOD OF NO MORE THAN FIVE YEARS, COMPENSATION
15 TO LOCAL GOVERNMENTS FOR LOSSES OF PROPERTY TAX REVENUE
16 RESULTING DIRECTLY FROM THE RETIREMENT OF THE ELECTRIC
17 GENERATING FACILITY, WHICH COMPENSATION MAY BE REDUCED
18 ANNUALLY DURING THE PERIOD DURING WHICH IT IS PROVIDED;

19 (d) PAYMENT OF RETRAINING COSTS, INCLUDING COSTS OF ANY
20 APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-303 (2), OR
21 SKILLED WORKER TRAINING PROGRAM, AS DEFINED IN SECTION 8-83-303
22 (10), AND PROVISION OF FINANCIAL ASSISTANCE, INCLUDING WAGE
23 SUPPORT OR SUPPLEMENTAL RETIREMENT SUPPORT, FOR COLORADO
24 WORKERS AND ASSISTANCE TO LOCAL GOVERNMENTS WITH LOSSES OF TAX
25 REVENUE DIRECTLY RELATED TO PRODUCTION OF FUEL PREVIOUSLY USED
26 IN THE RETIRED FACILITIES; AND

27 (e) JOB RETRAINING AND EDUCATION FOR WORKERS WHO ARE

1 COLORADO RESIDENTS WHO WERE DIRECTLY INVOLVED IN THE TRANSPORT
2 OF FUEL TO A RETIRED COLORADO ELECTRIC GENERATING FACILITY AND
3 WHO ARE LAID OFF OR EXPERIENCE REDUCED WORK SCHEDULES
4 RESULTING FROM THE RETIREMENT OF THE ELECTRIC GENERATING
5 FACILITY.

6 **40-41-104. Financing orders - application requirements.**

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

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

15 (b) THE COMMISSION SHALL TAKE FINAL ACTION TO APPROVE,
16 DENY, OR MODIFY ANY APPLICATION FOR A FINANCING ORDER AS
17 DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION IN A FINAL ORDER
18 ISSUED IN ACCORDANCE WITH THE COMMISSION'S RULES FOR ADDRESSING
19 APPLICATIONS.

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

23 (a) AN ESTIMATED SCHEDULE FOR THE PREVIOUSLY APPROVED
24 RETIREMENT;

25 (b) A SPECIFICATION OF THE EFFECTS OF THE PROPOSED CO-EIA
26 BOND FINANCING ON THE PREVIOUSLY APPROVED RETIREMENT;

27 (c) A PROPOSED METHODOLOGY FOR ALLOCATING THE REVENUE

1 REQUIREMENT FOR THE CO-EIA CHARGE AMONG CUSTOMER CLASSES;

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

5 (e) AN ESTIMATE OF THE NET PRESENT VALUE OF ELECTRIC UTILITY
6 CUSTOMER SAVINGS EXPECTED TO RESULT IF THE FINANCING ORDER IS
7 ISSUED AS DETERMINED BY A NET PRESENT VALUE COMPARISON BETWEEN
8 THE COSTS TO CUSTOMERS THAT ARE EXPECTED TO RESULT FROM THE
9 FINANCING OF THE UNDEPRECIATED BALANCES OF ELECTRIC GENERATING
10 FACILITIES WITH CO-EIA BONDS AND THE COSTS THAT WOULD RESULT
11 FROM THE APPLICATION OF TRADITIONAL ELECTRIC UTILITY FINANCING
12 MECHANISMS TO THE SAME UNDEPRECIATED BALANCES; AND

13 (f) ONE OR MORE ALTERNATIVE FINANCING SCENARIOS IN
14 ADDITION TO THE PREFERRED SCENARIO CONTAINED IN THE APPLICATION.

15 **40-41-105. Issuance of financing orders.** (1) FOLLOWING
16 NOTICE AND HEARING ON AN APPLICATION FOR A FINANCING ORDER AS
17 REQUIRED BY THE COMMISSION'S RULES, PRACTICE, AND PROCEDURE, THE
18 COMMISSION MAY ISSUE A FINANCING ORDER IF THE COMMISSION FINDS
19 THAT:

20 (a) THE CO-EIA COSTS DESCRIBED IN THE APPLICATION RELATED
21 TO THE RETIREMENT OF THE ELECTRIC GENERATING FACILITIES ARE
22 REASONABLE;

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

- 25 (I) ARE JUST AND REASONABLE;
- 26 (II) ARE CONSISTENT WITH THE PUBLIC INTEREST;
- 27 (III) CONSTITUTE A PRUDENT AND REASONABLE MECHANISM FOR

1 THE FINANCING OF THE CO-EIA COSTS DESCRIBED IN THE APPLICATION;
2 AND

3 (IV) WILL PROVIDE SUBSTANTIAL, TANGIBLE, AND QUANTIFIABLE
4 BENEFITS TO CUSTOMERS THAT ARE GREATER THAN THE BENEFITS THAT
5 WOULD HAVE BEEN ACHIEVED ABSENT THE ISSUANCE OF CO-EIA BONDS;
6 AND

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

9 (I) SIGNIFICANTLY LOWER OVERALL COSTS TO CUSTOMERS OR
10 SIGNIFICANTLY MITIGATE RATE IMPACTS TO CUSTOMERS RELATIVE TO
11 TRADITIONAL METHODS OF FINANCING; AND

12 (II) ACHIEVE THE MAXIMUM NET PRESENT VALUE OF CUSTOMER
13 SAVINGS, AS DETERMINED BY THE COMMISSION IN A FINANCING ORDER,
14 CONSISTENT WITH MARKET CONDITIONS AT THE TIME OF SALE AND THE
15 TERMS OF THE FINANCING ORDER.

16 (2) THE FINANCING ORDER MUST:

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

20 (b) PROVIDE THAT AN AMOUNT OF CO-EIA BOND PROCEEDS
21 EQUAL TO FIFTEEN PERCENT OF THE NET PRESENT VALUE OF ELECTRIC
22 UTILITY CUSTOMER SAVINGS ESTIMATED PURSUANT TO SECTION 40-41-104

23 (3)(e) BE TRANSFERRED TO THE AUTHORITY BY THE ELECTRIC UTILITY TO
24 WHICH THE FINANCING ORDER APPLIES FOR USE BY THE AUTHORITY IN
25 PROVIDING TRANSITION ASSISTANCE AS REQUIRED BY SECTION 40-41-202
26 AND PAYING ITS REASONABLE AND NECESSARY ADMINISTRATIVE AND
27 OPERATING COSTS AS AUTHORIZED BY SECTION 40-41-201 (3)(f);

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

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

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

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

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

26 (h) INCLUDE ANY ADDITIONAL FINDINGS OR CONCLUSIONS DEEMED
27 APPROPRIATE BY THE COMMISSION;

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

5 (j) SPECIFY THE TIMING OF ACTIONS REQUIRED BY THE ORDER SO
6 THAT:

7 (I) THE CO-EIA BONDS ARE ISSUED AS SOON AS FEASIBLE
8 FOLLOWING THE ISSUANCE OF THE FINANCING ORDER, INDEPENDENT OF
9 THE SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
10 GENERATING FACILITY;

11 (II) THE ENERGY ASSISTANCE FUNDS ARE TRANSFERRED TO THE
12 AUTHORITY AS SOON AS FEASIBLE, BUT NO LATER THAN THE EARLIER OF
13 THE DATE ON WHICH THE ELECTRIC GENERATING FACILITY CEASES
14 OPERATION; AND

15 (III) THE APPLICANT UTILITY FILES TO REDUCE ITS RATES AS
16 REQUIRED IN SUBSECTION (4) OF THIS SECTION SIMULTANEOUSLY WITH
17 THE INCEPTION OF THE CO-EIA CHARGES AND INDEPENDENTLY OF THE
18 SCHEDULE OF CLOSING AND DECOMMISSIONING OF THE ELECTRIC
19 GENERATING FACILITY; AND

20 (k) SPECIFY A FUTURE RATEMAKING PROCESS TO RECONCILE ANY
21 DIFFERENCE BETWEEN THE PROJECTED PRETAX COSTS INCLUDED IN THE
22 AMOUNT FINANCED BY CO-EIA BONDS AND THE FINAL ACTUAL PRETAX
23 COSTS INCURRED BY THE UTILITY IN RETIRING THE ELECTRIC GENERATING
24 FACILITY. THE RECONCILIATION MAY AFFECT THE UTILITY'S BASE RATES
25 OR ANY RIDER ADOPTED PURSUANT TO SUBSECTION (4) OF THIS SECTION,
26 BUT SHALL NOT AFFECT THE AMOUNT OF THE BONDS OR THE ASSOCIATED
27 CO-EIA CHARGES PAID BY CUSTOMERS.

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

7 (4) A FINANCING ORDER SHALL REQUIRE THE APPLICANT UTILITY,
8 SIMULTANEOUSLY WITH THE INCEPTION OF THE COLLECTION OF CO-EIA
9 CHARGES, TO REDUCE ITS RATES THROUGH A REDUCTION IN BASE RATES
10 OR BY A NEGATIVE RIDER ON CUSTOMER BILLS IN AN AMOUNT EQUAL TO
11 THE REVENUE REQUIREMENT ASSOCIATED WITH THE UTILITY ASSETS BEING
12 FINANCED BY CO-EIA BONDS.

13 **40-41-106. Effect of financing order.** (1) A FINANCING ORDER
14 REMAINS IN EFFECT UNTIL THE CO-EIA BONDS ISSUED AS AUTHORIZED BY
15 THE FINANCING ORDER HAVE BEEN PAID IN FULL AND ALL FINANCING
16 COSTS RELATING TO THE CO-EIA BONDS HAVE BEEN PAID IN FULL.

17 (2) A FINANCING ORDER REMAINS IN EFFECT AND UNABATED
18 NOTWITHSTANDING THE BANKRUPTCY, REORGANIZATION, OR INSOLVENCY
19 OF THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES OR
20 ANY AFFILIATE OF THE ELECTRIC UTILITY OR SUCCESSOR ENTITY OR
21 ASSIGNEE.

22 (3) A FINANCING ORDER IS IRREVOCABLE, AND THE COMMISSION
23 MAY NOT REDUCE, IMPAIR, POSTPONE, OR TERMINATE CO-EIA CHARGES
24 APPROVED IN A FINANCING ORDER OR IMPAIR CO-EIA PROPERTY OR THE
25 COLLECTION OR RECOVERY OF CO-EIA REVENUE.

26 (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, UPON ITS
27 OWN MOTION OR AT THE REQUEST OF AN ELECTRIC UTILITY OR ANY OTHER

1 PERSON, THE COMMISSION MAY COMMENCE A PROCEEDING AND ISSUE A
2 SUBSEQUENT FINANCING ORDER THAT PROVIDES FOR REFINANCING,
3 RETIRING, OR REFUNDING CO-EIA BONDS ISSUED PURSUANT TO THE
4 ORIGINAL FINANCING ORDER IF:

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

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

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

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

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

24 (c) CONSIDER THE CO-EIA COSTS OR FINANCING COSTS SPECIFIED
25 IN THE FINANCING ORDER TO BE THE REGULATED COSTS OR ASSETS OF THE
26 ELECTRIC UTILITY; OR

27 (d) DETERMINE ANY PRUDENT ACTION TAKEN BY AN ELECTRIC

1 UTILITY THAT IS CONSISTENT WITH THE FINANCING ORDER TO BE UNJUST
2 OR UNREASONABLE.

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

4 (a) AFFECTS THE AUTHORITY OF THE COMMISSION TO APPLY OR
5 MODIFY ANY BILLING MECHANISM DESIGNED TO RECOVER CO-EIA
6 CHARGES;

7 (b) PREVENTS OR PRECLUDES THE COMMISSION FROM
8 INVESTIGATING THE COMPLIANCE OF AN ELECTRIC UTILITY WITH THE
9 TERMS AND CONDITIONS OF A FINANCING ORDER AND REQUIRING
10 COMPLIANCE WITH THE FINANCING ORDER; OR

11 (c) PREVENTS OR PRECLUDES THE COMMISSION FROM IMPOSING
12 REGULATORY SANCTIONS AGAINST AN ELECTRIC UTILITY FOR FAILURE TO
13 COMPLY WITH THE TERMS AND CONDITIONS OF A FINANCING ORDER OR THE
14 REQUIREMENTS OF THIS ARTICLE 41.

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

20 **40-41-108. Electric utility customer protection - legislative**
21 **declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
22 THAT:

23 (a) THE USE OF CO-EIA BOND FINANCING WILL BRING
24 SUBSTANTIAL BENEFITS TO COLORADO ELECTRIC UTILITY CUSTOMERS AND
25 TO COLORADO ELECTRIC GENERATING FACILITY WORKERS AND COLORADO
26 COMMUNITIES THAT ARE DIRECTLY IMPACTED BY THE RETIREMENT OF
27 ELECTRIC GENERATING FACILITIES; AND

1 (b) BECAUSE THE COMMISSION'S APPROVAL OF A FINANCING ORDER
2 IS IRREVOCABLE, TYPICALLY ADDRESSES VERY LARGE AMOUNTS OF
3 FINANCING UNDERTAKEN PURSUANT TO THIS ARTICLE 41, AND IS NOT
4 REVIEWABLE BY FUTURE COMMISSIONS, IN ADDITION TO ITS OTHER
5 POWERS AND DUTIES, THE COMMISSION HAS THE DUTY TO PERFORM AND
6 AUTHORITY REQUIRED TO PERFORM COMPREHENSIVE DUE DILIGENCE IN ITS
7 EVALUATION OF AN APPLICATION FOR A FINANCING ORDER AND HAS THE
8 DUTY AND AUTHORITY TO OVERSEE THE PROCESS USED TO STRUCTURE,
9 MARKET, AND PRICE CO-EIA BONDS.

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

11 (a) THE COMMISSION MAY ATTACH SUCH CONDITIONS TO THE
12 APPROVAL OF A FINANCING ORDER AS THE COMMISSION DEEMS
13 APPROPRIATE TO MAXIMIZE THE FINANCIAL BENEFITS OR MINIMIZE THE
14 FINANCIAL RISKS OF THE TRANSACTION TO CUSTOMERS AND TO DIRECTLY
15 IMPACTED COLORADO WORKERS AND COMMUNITIES;

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

19 (c) THE COMMISSION SHALL REVIEW AND DETERMINE THE
20 REASONABLENESS OF ALL PROPOSED UP-FRONT AND ONGOING FINANCING
21 COSTS; AND

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

26 (3) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ISSUANCE OF
27 CO-EIA BONDS, THE APPLICANT ELECTRIC UTILITY SHALL FILE WITH THE

1 COMMISSION INFORMATION REGARDING THE ACTUAL UP-FRONT AND
2 ONGOING FINANCING COSTS OF THE CO-EIA BONDS. THE COMMISSION
3 SHALL REVIEW THE PRUDENCE OF THE ELECTRIC UTILITY'S ACTION TO
4 DETERMINE WHETHER THE COSTS RESULTED IN THE LOWEST OVERALL
5 COSTS THAT WERE REASONABLY CONSISTENT WITH BOTH MARKET
6 CONDITIONS AT THE TIME OF THE ISSUANCE AND THE TERMS OF THE
7 FINANCING ORDER. IF THE COMMISSION DETERMINES THAT THE ELECTRIC
8 UTILITY'S ACTIONS WERE NOT PRUDENT OR WERE INCONSISTENT WITH THE
9 FINANCING ORDER, THE COMMISSION MAY APPLY ANY REMEDIES THAT ARE
10 AVAILABLE TO IT UNDER ARTICLE 7 OF THIS TITLE 40; EXCEPT THAT THE
11 COMMISSION SHALL NOT APPLY ANY REMEDY THAT HAS THE EFFECT,
12 DIRECTLY OR INDIRECTLY, OF IMPAIRING THE SECURITY FOR THE CO-EIA
13 BONDS.

14 (4) IN PERFORMING ITS RESPONSIBILITIES UNDER THIS ARTICLE 41,
15 THE COMMISSION SHALL ENGAGE OUTSIDE CONSULTANTS AND COUNSEL
16 EXPERIENCED IN SECURITIZED INVESTOR-OWNED ELECTRIC UTILITY
17 RATEPAYER-BACKED BOND FINANCING SIMILAR TO CO-EIA BONDS, AND
18 THE EXPENSES ASSOCIATED WITH THE ENGAGEMENT SHALL BE INCLUDED
19 AS FINANCING COSTS AND INCLUDED IN THE CO-EIA CHARGE, ARE NOT AN
20 OBLIGATION OF THE STATE, AND ARE ASSIGNED SOLELY TO THE
21 TRANSACTION. IN ADDITION, EXPENSES INCURRED BY THE COMMISSION TO
22 HIRE AND COMPENSATE ADDITIONAL TEMPORARY STAFF NEEDED TO
23 PERFORM ITS RESPONSIBILITIES UNDER THIS ARTICLE 41 SHALL BE
24 INCLUDED AS FINANCING COSTS AND INCLUDED IN THE CO-EIA CHARGE.

25 (5) IF A UTILITY'S APPLICATION FOR A FINANCING ORDER IS DENIED
26 OR WITHDRAWN OR FOR ANY REASON NO CO-EIA BONDS ARE ISSUED, THE
27 COMMISSION'S COSTS OF RETAINING EXPERT CONSULTANTS, AS

1 AUTHORIZED BY SUBSECTION (4) OF THIS SECTION, SHALL BE PAID BY THE
2 APPLICANT UTILITY AND SHALL BE CONSIDERED BY THE COMMISSION AS A
3 PRUDENT DEFERRED EXPENSE FOR RECOVERY IN THE UTILITY'S FUTURE
4 RATES.

5 **40-41-109. Judicial review of financing orders.** A FINANCING
6 ORDER IS A FINAL ORDER OF THE COMMISSION. NOTWITHSTANDING THE
7 PROVISIONS OF SECTION 40-6-115 (5) SPECIFYING PROPER VENUE FOR
8 PETITION FILINGS, A PARTY AGGRIEVED BY THE ISSUANCE OF A FINANCING
9 ORDER MAY PETITION FOR SUSPENSION AND REVIEW OF THE FINANCING
10 ORDER ONLY IN THE DISTRICT COURT FOR THE CITY AND COUNTY OF
11 DENVER. IN THE CASE OF ANY PETITION FOR SUSPENSION AND REVIEW, THE
12 COURT SHALL PROCEED TO HEAR AND DETERMINE THE ACTION AS
13 EXPEDITIOUSLY AS PRACTICABLE AND SHALL GIVE THE ACTION
14 PRECEDENCE OVER OTHER MATTERS NOT ACCORDED SIMILAR PRECEDENCE
15 BY LAW.

16 **40-41-110. Electric utilities - duties.** (1) THE ELECTRIC BILLS OF
17 AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND
18 CAUSED CO-EIA BONDS TO BE ISSUED:

19 (a) MUST EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES
20 ON THE BILL REPRESENTS CO-EIA CHARGES APPROVED IN A FINANCING
21 ORDER ISSUED TO THE ELECTRIC UTILITY AND, IF THE CO-EIA PROPERTY
22 HAS BEEN TRANSFERRED TO AN ASSIGNEE, MUST INCLUDE A STATEMENT
23 THAT THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO CO-EIA CHARGES
24 AND THAT THE ELECTRIC UTILITY OR OTHER ENTITY, IF APPLICABLE, IS
25 ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE;

26 (b) MUST INCLUDE THE CO-EIA CHARGE ON EACH CUSTOMER'S
27 BILL AS A SEPARATE LINE ITEM TITLED "ENERGY IMPACT ASSISTANCE

1 CHARGE" AND MAY INCLUDE BOTH THE RATE AND THE AMOUNT OF THE
2 CHARGE ON EACH BILL. THE FAILURE OF AN ELECTRIC UTILITY TO COMPLY
3 WITH THIS SUBSECTION (1) DOES NOT INVALIDATE, IMPAIR, OR AFFECT ANY
4 FINANCING ORDER, CO-EIA PROPERTY, CO-EIA CHARGE, OR CO-EIA
5 BONDS, BUT DOES SUBJECT THE ELECTRIC UTILITY TO PENALTIES UNDER
6 APPLICABLE COMMISSION RULES; AND

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

10 (2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER
11 AND CAUSED CO-EIA BONDS TO BE ISSUED MUST DEMONSTRATE IN AN
12 ANNUAL FILING WITH THE COMMISSION THAT CO-EIA REVENUES ARE
13 APPLIED SOLELY TO THE REPAYMENT OF CO-EIA BONDS AND OTHER
14 FINANCING COSTS.

15 **40-41-111. CO-EIA property.** (1) CO-EIA PROPERTY THAT IS
16 DESCRIBED IN A FINANCING ORDER CONSTITUTES AN EXISTING PRESENT
17 PROPERTY RIGHT OR INTEREST IN AN EXISTING PRESENT PROPERTY RIGHT
18 EVEN THOUGH THE IMPOSITION AND COLLECTION OF CO-EIA CHARGES
19 DEPENDS ON THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER IS
20 ISSUED PERFORMING ITS SERVICING FUNCTIONS RELATING TO THE
21 COLLECTION OF CO-EIA CHARGES AND ON FUTURE ELECTRICITY
22 CONSUMPTION. THE PROPERTY RIGHT OR INTEREST EXISTS REGARDLESS OF
23 WHETHER THE REVENUES OR PROCEEDS ARISING FROM THE CO-EIA
24 PROPERTY HAVE BEEN BILLED, HAVE ACCRUED, OR HAVE BEEN COLLECTED
25 AND NOTWITHSTANDING THE FACT THAT THE VALUE OR AMOUNT OF THE
26 PROPERTY RIGHT OR INTEREST IS DEPENDENT ON THE FUTURE PROVISION
27 OF SERVICE TO CUSTOMERS BY THE ELECTRIC UTILITY OR A SUCCESSOR OR

1 ASSIGNEE OF THE ELECTRIC UTILITY.

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

6 (3) ALL OR ANY PORTION OF CO-EIA PROPERTY DESCRIBED IN A
7 FINANCING ORDER ISSUED TO AN ELECTRIC UTILITY MAY BE TRANSFERRED,
8 SOLD, CONVEYED, OR ASSIGNED TO A SUCCESSOR OR ASSIGNEE THAT IS
9 WHOLLY OWNED, DIRECTLY OR INDIRECTLY, BY THE ELECTRIC UTILITY
10 AND IS CREATED FOR THE LIMITED PURPOSE OF ACQUIRING, OWNING, OR
11 ADMINISTERING CO-EIA PROPERTY OR ISSUING CO-EIA BONDS AS
12 AUTHORIZED BY THE FINANCING ORDER. ALL OR ANY PORTION OF CO-EIA
13 PROPERTY MAY BE PLEDGED TO SECURE CO-EIA BONDS ISSUED PURSUANT
14 TO A FINANCING ORDER, AMOUNTS PAYABLE TO FINANCING PARTIES AND
15 TO COUNTERPARTIES UNDER ANY ANCILLARY AGREEMENTS, AND OTHER
16 FINANCING COSTS. EACH TRANSFER, SALE, CONVEYANCE, ASSIGNMENT, OR
17 PLEDGE BY AN ELECTRIC UTILITY OR AN AFFILIATE OF AN ELECTRIC
18 UTILITY IS A TRANSACTION IN THE ORDINARY COURSE OF BUSINESS.

19 (4) IF AN ELECTRIC UTILITY DEFAULTS ON ANY REQUIRED PAYMENT
20 OF CHARGES ARISING FROM CO-EIA PROPERTY DESCRIBED IN A FINANCING
21 ORDER, A COURT, UPON APPLICATION BY AN INTERESTED PARTY AND
22 WITHOUT LIMITING ANY OTHER REMEDIES AVAILABLE TO THE APPLYING
23 PARTY, SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE
24 REVENUES ARISING FROM THE CO-EIA PROPERTY TO THE FINANCING
25 PARTIES. ANY SUCH FINANCING ORDER REMAINS IN FULL FORCE AND
26 EFFECT NOTWITHSTANDING ANY REORGANIZATION, BANKRUPTCY, OR
27 OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE ELECTRIC

1 UTILITY OR ITS SUCCESSORS OR ASSIGNEES.

2 (5) THE INTEREST OF A TRANSFEREE, PURCHASER, ACQUIRER,
3 ASSIGNEE, OR PLEDGEE IN CO-EIA PROPERTY SPECIFIED IN A FINANCING
4 ORDER ISSUED TO AN ELECTRIC UTILITY, AND IN THE REVENUE AND
5 COLLECTIONS ARISING FROM THAT PROPERTY, IS NOT SUBJECT TO SETOFF,
6 COUNTERCLAIM, SURCHARGE, OR DEFENSE BY THE ELECTRIC UTILITY OR
7 ANY OTHER PERSON OR IN CONNECTION WITH THE REORGANIZATION,
8 BANKRUPTCY, OR OTHER INSOLVENCY OF THE ELECTRIC UTILITY OR ANY
9 OTHER ENTITY.

10 (6) A SUCCESSOR TO AN ELECTRIC UTILITY, WHETHER PURSUANT
11 TO ANY REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY
12 PROCEEDING OR WHETHER PURSUANT TO ANY MERGER OR ACQUISITION,
13 SALE, OTHER BUSINESS COMBINATION, OR TRANSFER BY OPERATION OF
14 LAW, AS A RESULT OF ELECTRIC UTILITY RESTRUCTURING OR OTHERWISE,
15 MUST PERFORM AND SATISFY ALL OBLIGATIONS OF, AND HAS THE SAME
16 DUTIES AND RIGHTS UNDER A FINANCING ORDER AS THE ELECTRIC UTILITY
17 TO WHICH THE FINANCING ORDER APPLIES AND SHALL PERFORM THE
18 DUTIES AND EXERCISE THE RIGHTS IN THE SAME MANNER AND TO THE
19 SAME EXTENT AS THE ELECTRIC UTILITY, INCLUDING COLLECTING AND
20 PAYING TO ANY PERSON ENTITLED TO RECEIVE THEM THE REVENUES,
21 COLLECTIONS, PAYMENTS, OR PROCEEDS OF CO-EIA PROPERTY DESCRIBED
22 IN THE FINANCING ORDER.

23 **40-41-112. CO-EIA bonds - legal investments - not public debt**
24 **- pledge of state.** (1) BANKS, TRUST COMPANIES, SAVINGS AND LOAN
25 ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS,
26 GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST
27 ANY MONEY WITHIN THEIR CONTROL IN CO-EIA BONDS. PUBLIC ENTITIES,

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

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

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

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

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

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

5 **40-41-113. Assignee or financing party not automatically**
6 **subject to commission regulation.** AN ASSIGNEE OR FINANCING PARTY
7 THAT IS NOT ALREADY REGULATED BY THE COMMISSION DOES NOT
8 BECOME SUBJECT TO COMMISSION REGULATION SOLELY AS A RESULT OF
9 ENGAGING IN ANY TRANSACTION AUTHORIZED BY OR DESCRIBED IN THIS
10 ARTICLE 41.

11 **40-41-114. Effect of other laws and judicial decisions.** (1) IF
12 ANY PROVISION OF THIS ARTICLE 41 CONFLICTS WITH ANY OTHER LAW
13 REGARDING THE ATTACHMENT, ASSIGNMENT, PERFECTION, EFFECT OF
14 PERFECTION, OR PRIORITY OF ANY SECURITY INTEREST IN OR TRANSFER OF
15 CO-EIA PROPERTY, THE PROVISIONS OF THIS ARTICLE 41 GOVERNS TO THE
16 EXTENT OF THE CONFLICT.

17 (2) EFFECTIVE ON THE DATE THAT CO-EIA BONDS ARE FIRST
18 ISSUED, IF ANY PROVISION OF THIS ARTICLE 41 IS HELD TO BE INVALID OR
19 IS INVALIDATED, SUPERSEDED, REPLACED, REPEALED, OR EXPIRES, THAT
20 OCCURRENCE DOES NOT AFFECT ANY ACTION ALLOWED UNDER THIS
21 ARTICLE 41 THAT WAS LAWFULLY TAKEN BY THE COMMISSION, AN
22 ELECTRIC UTILITY, AN ASSIGNEE, A COLLECTION AGENT, A FINANCING
23 PARTY, A BONDHOLDER, OR A PARTY TO AN ANCILLARY AGREEMENT
24 BEFORE THE OCCURRENCE, AND ANY SUCH ACTION REMAINS IN FULL FORCE
25 AND EFFECT.

26 (3) NOTHING IN SUBSECTION (1) OR (2) OF THIS SECTION
27 PRECLUDES A UTILITY FOR WHICH THE COMMISSION HAS INITIALLY ISSUED

1 A FINANCING ORDER FROM APPLYING TO THE COMMISSION FOR:

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

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

6 **40-41-115. Choice of law.** THE LAWS OF THE STATE GOVERN THE
7 VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY, AND
8 EXERCISE OF REMEDIES WITH RESPECT TO THE TRANSFER OF AN INTEREST
9 OR RIGHT OR CREATION OF A SECURITY INTEREST IN ANY CO-EIA
10 PROPERTY, CO-EIA CHARGE, OR FINANCING ORDER.

11 **40-41-116. Security interests in CO-EIA property.** (1) THE
12 CREATION, PERFECTION, AND ENFORCEMENT OF ANY SECURITY INTEREST
13 IN CO-EIA PROPERTY TO SECURE THE REPAYMENT OF THE PRINCIPAL OF
14 AND INTEREST ON CO-EIA BONDS, AMOUNTS PAYABLE UNDER ANY
15 ANCILLARY AGREEMENT, AND OTHER FINANCING COSTS ARE GOVERNED BY
16 THIS SUBSECTION (1) AND NOT BY THE "UNIFORM COMMERCIAL CODE",
17 TITLE 4. ALL OF THE FOLLOWING APPLY:

18 (a) THE DESCRIPTION OR INDICATION OF CO-EIA PROPERTY IN A
19 TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS
20 SUFFICIENT ONLY IF THE DESCRIPTION OR INDICATION REFERS TO THIS
21 ARTICLE 41 AND THE FINANCING ORDER CREATING THE CO-EIA
22 PROPERTY.

23 (b) (I) A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED,
24 VALID, AND BINDING AS SOON AS ALL OF THE FOLLOWING EVENTS HAVE
25 OCCURRED:

26 (A) THE FINANCING ORDER THAT DESCRIBES THE CO-EIA
27 PROPERTY IS ISSUED;

1 (B) A SECURITY AGREEMENT IS EXECUTED AND DELIVERED; AND

2 (C) VALUE IS RECEIVED FOR THE CO-EIA BONDS.

3 (II) ONCE A SECURITY INTEREST IN CO-EIA PROPERTY IS CREATED
4 UNDER SUBSECTION (1)(b)(I) OF THIS SECTION, THE SECURITY INTEREST
5 ATTACHES WITHOUT ANY PHYSICAL DELIVERY OF COLLATERAL OR ANY
6 OTHER ACT. THE LIEN OF THE SECURITY INTEREST IS VALID, BINDING, AND
7 PERFECTED AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT,
8 CONTRACT OR OTHERWISE AGAINST THE PERSON GRANTING THE SECURITY
9 INTEREST, REGARDLESS OF WHETHER SUCH PARTIES HAVE NOTICE OF THE
10 LIEN, UPON THE FILING OF A FINANCING STATEMENT WITH THE SECRETARY
11 OF STATE. THE SECRETARY OF STATE SHALL MAINTAIN A FINANCING
12 STATEMENT FILED PURSUANT TO THIS SUBSECTION (1)(b)(II) IN THE SAME
13 MANNER IN WHICH THE SECRETARY MAINTAINS AND IN THE SAME
14 RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
15 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
16 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
17 (1)(b)(II) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING
18 OF FINANCING STATEMENTS.

19 (c) A SECURITY INTEREST IN CO-EIA PROPERTY IS A
20 CONTINUOUSLY PERFECTED SECURITY INTEREST AND HAS PRIORITY OVER
21 ANY OTHER LIEN, CREATED BY OPERATION OF LAW OR OTHERWISE, WHICH
22 MAY SUBSEQUENTLY ATTACH TO THE CO-EIA PROPERTY UNLESS THE
23 HOLDER OF THE SECURITY INTEREST HAS AGREED IN WRITING OTHERWISE.

24 (d) THE PRIORITY OF A SECURITY INTEREST IN CO-EIA PROPERTY
25 IS NOT AFFECTED BY THE COMMINGLING OF CO-EIA PROPERTY OR
26 CO-EIA REVENUE WITH OTHER MONEY. AN ASSIGNEE, BONDHOLDER, OR
27 FINANCING PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT

1 OF ALL CO-EIA PROPERTY OR CO-EIA REVENUE THAT IS PLEDGED FOR
2 THE PAYMENT OF CO-EIA BONDS EVEN IF THE CO-EIA PROPERTY OR
3 CO-EIA REVENUE IS DEPOSITED IN A CASH OR DEPOSIT ACCOUNT OF THE
4 ELECTRIC UTILITY IN WHICH THE CO-EIA REVENUE IS COMMINGLED WITH
5 OTHER MONEY, AND ANY OTHER SECURITY INTEREST THAT APPLIES TO THE
6 OTHER MONEY DOES NOT APPLY TO THE CO-EIA REVENUE.

7 (e) NEITHER A SUBSEQUENT ORDER OF THE COMMISSION
8 AMENDING A FINANCING ORDER AS AUTHORIZED BY SECTION 40-41-106
9 (4), NOR APPLICATION OF AN ADJUSTMENT MECHANISM AS AUTHORIZED BY
10 SECTION 40-41-105 (2)(g), AFFECTS THE VALIDITY, PERFECTION, OR
11 PRIORITY OF A SECURITY INTEREST IN OR TRANSFER OF CO-EIA PROPERTY.

12 **40-41-117. Sales of CO-EIA property.** (1) (a) A SALE,
13 ASSIGNMENT, OR TRANSFER OF CO-EIA PROPERTY IS AN ABSOLUTE
14 TRANSFER AND TRUE SALE OF, AND NOT A PLEDGE OF OR SECURED
15 TRANSACTION RELATING TO, THE SELLER'S RIGHT, TITLE AND INTEREST IN,
16 TO, AND UNDER THE CO-EIA PROPERTY IF THE DOCUMENTS GOVERNING
17 THE TRANSACTION EXPRESSLY STATE THAT THE TRANSACTION IS A SALE
18 OR OTHER ABSOLUTE TRANSFER. A TRANSFER OF AN INTEREST IN CO-EIA
19 PROPERTY MAY BE CREATED ONLY WHEN ALL OF THE FOLLOWING HAVE
20 OCCURRED:

21 (I) THE FINANCING ORDER CREATING AND DESCRIBING THE
22 CO-EIA PROPERTY HAS BECOME EFFECTIVE;

23 (II) THE DOCUMENTS EVIDENCING THE TRANSFER OF THE CO-EIA
24 PROPERTY HAVE BEEN EXECUTED AND DELIVERED TO THE ASSIGNEE; AND

25 (III) VALUE IS RECEIVED.

26 (b) UPON THE FILING OF A FINANCING STATEMENT WITH THE
27 SECRETARY OF STATE, A TRANSFER OF AN INTEREST IN CO-EIA PROPERTY

1 IS PERFECTED AGAINST ALL THIRD PERSONS, INCLUDING ANY JUDICIAL LIEN
2 OR OTHER LIEN CREDITORS OR ANY CLAIMS OF THE SELLER OR CREDITORS
3 OF THE SELLER, OTHER THAN CREDITORS HOLDING A PRIOR SECURITY
4 INTEREST, OWNERSHIP INTEREST, OR ASSIGNMENT IN THE CO-EIA
5 PROPERTY PREVIOUSLY PERFECTED IN ACCORDANCE WITH THIS
6 SUBSECTION (1) OR SECTION 40-41-116. THE SECRETARY OF STATE SHALL
7 MAINTAIN A FINANCING STATEMENT FILED PURSUANT TO THIS SUBSECTION
8 (1)(b) IN THE SAME MANNER IN WHICH THE SECRETARY MAINTAINS AND IN
9 THE SAME RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
10 FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
11 FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
12 (1)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF
13 FINANCING STATEMENTS.

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

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

20 (b) THE RETENTION BY THE SELLER OF:

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

24 (II) THE RIGHT TO RECOVER COSTS ASSOCIATED WITH TAXES,
25 FRANCHISE FEES, OR LICENSE FEES IMPOSED ON THE COLLECTION OF
26 CO-EIA REVENUE;

27 (c) ANY RECOURSE THAT THE PURCHASER MAY HAVE AGAINST THE

1 SELLER;

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

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

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

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

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

12 **40-41-118. Use of CO-EIA bond proceeds by an electric utility**

13 - **definition.** (1) FOR PURPOSES OF THIS SECTION, "LEAST-COST
14 GENERATION RESOURCE" MEANS AN INCREMENTAL SUPPLY-SIDE OR
15 DEMAND-SIDE RESOURCE THAT WHEN INCLUDED IN AN ELECTRIC UTILITY'S
16 GENERATION PORTFOLIO PRODUCES THE LOWEST COST AMONG
17 ALTERNATIVE RESOURCES, CONSIDERING BOTH SHORT-TERM AND
18 LONG-TERM COSTS AND ASSESSING THE LIKELIHOOD OF CHANGES IN
19 FUTURE FUEL PRICES AND FUTURE ENVIRONMENTAL REQUIREMENTS,
20 AMONG OTHER CONSIDERATIONS.

21 (2) SUBJECT TO COMMISSION APPROVAL AS REQUIRED BY
22 SUBSECTION (3) OF THIS SECTION, AN ELECTRIC UTILITY MAY EXPEND OR
23 INVEST CO-EIA BOND PROCEEDS, OTHER THAN BOND PROCEEDS REQUIRED
24 BY A FINANCING ORDER TO BE TRANSFERRED TO THE AUTHORITY, IN A
25 MANNER THAT DEMONSTRABLY BENEFITS RATEPAYER INTERESTS, AS
26 FOLLOWS:

27 (a) TO PURCHASE POWER TO REPLACE ELECTRICITY GENERATED BY

1 THE ELECTRIC GENERATING FACILITIES THAT WERE RETIRED IF THE
2 COMMISSION DETERMINES THAT THE PURCHASED POWER IS A LEAST-COST
3 GENERATION RESOURCE AND IS CONSISTENT WITH THE ELECTRIC UTILITY'S
4 APPROVED INTEGRATED RESOURCE PLAN;

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

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

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

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

21 (a) USE ITS REGULAR PROCESS FOR CONSIDERATION OF
22 APPLICATIONS; AND

23 (b) FULLY CONSIDER THE PROVISIONS OF SECTION 40-2-123
24 CONCERNING NEW ENERGY TECHNOLOGIES AND FUTURE ENVIRONMENTAL
25 REGULATIONS.

26 PART 2

27 COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY

1 **40-41-201. Colorado energy impact assistance authority -**
2 **creation - board - general powers and duties.** (1) THE COLORADO
3 ENERGY IMPACT ASSISTANCE AUTHORITY IS HEREBY CREATED. THE
4 AUTHORITY IS AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE,
5 IS NOT AN AGENCY OF STATE GOVERNMENT, AND IS NOT SUBJECT TO
6 ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD,
7 OR AGENCY OF THE STATE. THE AUTHORITY IS A PUBLIC
8 INSTRUMENTALITY, AND ITS EXERCISE OF ITS POWERS AND EXECUTION OF
9 THE DUTIES AS SPECIFIED IN THIS ARTICLE 41 IS THE PERFORMANCE OF AN
10 ESSENTIAL PUBLIC FUNCTION.

11 (2) (a) THE AUTHORITY IS GOVERNED BY A BOARD OF DIRECTORS,
12 WHICH CONSISTS OF SEVEN DIRECTORS APPOINTED BY THE GOVERNOR AS
13 FOLLOWS:

14 (I) ONE DIRECTOR WHO HAS PROFESSIONAL JOB TRAINING
15 EXPERIENCE;

16 (II) ONE DIRECTOR WHO HAS PROFESSIONAL EXPERIENCE IN RURAL
17 ECONOMIC DEVELOPMENT; AND

18 (III) FIVE MEMBERS APPOINTED WITHOUT OCCUPATIONAL
19 REQUIREMENTS, BUT THE GOVERNOR SHALL STRONGLY CONSIDER
20 APPOINTING A DIRECTOR WHO IS LICENSED TO PRACTICE LAW IN
21 COLORADO, A DIRECTOR WHO HAS PROFESSIONAL FINANCE EXPERIENCE,
22 AND AT LEAST ONE DIRECTOR WHO RESIDES IN AN AREA DIRECTLY
23 IMPACTED BY THE RETIREMENT OF ONE OR MORE ELECTRIC GENERATING
24 FACILITIES.

25 (b) THE GOVERNOR SHALL APPOINT THE INITIAL DIRECTORS OF THE
26 BOARD FOR TERMS BEGINNING JULY 1, 2017. DIRECTORS SERVE FOR
27 FIVE-YEAR TERMS; EXCEPT THAT TWO OF THE DIRECTORS SHALL SERVE

1 INITIAL TERMS OF THREE YEARS. THE GOVERNOR MAY REMOVE A
2 DIRECTOR FOR MISFEASANCE, MALFEASANCE, WILLFUL NEGLECT OF DUTY,
3 OR OTHER CAUSE AFTER NOTICE AND A PUBLIC HEARING UNLESS THE
4 DIRECTOR BEING REMOVED EXPRESSLY WAIVES IN WRITING HIS OR HER
5 RIGHT TO NOTICE AND A PUBLIC HEARING. THE GOVERNOR SHALL FILL ANY
6 VACANCY ON THE BOARD BY THE APPOINTMENT OF A NEW DIRECTOR FOR
7 THE REMAINDER OF THE UNEXPIRED TERM OF THE DIRECTOR WHOSE
8 DEPARTURE CAUSED THE VACANCY.

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

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

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

25 (b) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION;

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

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

5 (e) TO FIX THE TIME AND PLACE OF BOARD MEETINGS, WHICH MUST
6 BE HELD AT LEAST FOUR TIMES PER YEAR AND, CONSISTENT WITH PART 4
7 OF ARTICLE 6 OF TITLE 24, THE METHOD OF PROVIDING NOTICE OF BOARD
8 MEETINGS. AT LEAST ONE BOARD MEETING PER YEAR MUST BE HELD
9 IN-PERSON, AND OTHER MEETINGS MAY BE HELD USING AUDIO OR VIDEO
10 TELECOMMUNICATIONS TECHNOLOGY.

11 (f) TO PAY ITS REASONABLE AND NECESSARY ADMINISTRATIVE
12 AND OPERATING COSTS FROM ANY REVENUE THAT IT RECEIVES;

13 (g) TO SUE AND BE SUED;

14 (h) TO APPOINT, HIRE, RETAIN, AND TERMINATE OFFICERS AND
15 EMPLOYEES AND CONTRACT WITH AGENTS, ATTORNEYS, ACCOUNTANTS,
16 AUDITORS, FINANCIAL ADVISERS, INVESTMENT BANKERS, AND OTHER
17 PROFESSIONAL CONSULTANTS TO THE EXTENT NEEDED TO EXERCISE ITS
18 POWERS AND PERFORM ITS DUTIES UNDER THIS ARTICLE 41;

19 (i) TO ENTER INTO CONTRACTS AND AGREEMENTS, INCLUDING
20 MEMORANDUMS OF UNDERSTANDING OR INTERGOVERNMENTAL
21 AGREEMENTS WITH ONE OR MORE AGENCIES OR POLITICAL SUBDIVISIONS
22 OF THE STATE OR ANOTHER STATE OR WITH THE FEDERAL GOVERNMENT,
23 NOT INCONSISTENT WITH THIS ARTICLE 41 OR ANY OTHER LAWS OF THE
24 STATE. THE AUTHORITY MAY ENTER INTO A CONTRACT OR AGREEMENT
25 WITH AN APPROPRIATE STATE AGENCY TO HELP THE AUTHORITY
26 ADMINISTER THE DISTRIBUTION OF ITS MONEY AS TRANSITION ASSISTANCE,
27 AND, IF IT DOES SO, THE MONEY ADMINISTERED REMAINS MONEY OF THE

1 AUTHORITY UNTIL IT IS DISTRIBUTED AND IS NOT MONEY OR REVENUE OF
2 THE STATE.

3 (j) TO ACQUIRE SPACE, INCLUDING OFFICE SPACE, EQUIPMENT,
4 SERVICES, SUPPLIES, AND INSURANCE NECESSARY TO EXECUTE ITS
5 POWERS, DUTIES, AND MISSION UNDER THIS ARTICLE 41;

6 (k) TO DEPOSIT ITS MONEY IN ANY BANKING INSTITUTION WITHIN
7 THE STATE OR IN ANY DEPOSITORY AUTHORIZED IN SECTION 24-75-603, TO
8 APPOINT, FOR THE PURPOSE OF MAKING SUCH DEPOSITS, ONE OR MORE
9 PERSONS, WHO SHALL GIVE SURETY BONDS IN SUCH AMOUNTS AND FORM
10 AND FOR SUCH PURPOSES AS THE BOARD REQUIRES, TO ACT AS
11 CUSTODIANS OF ITS MONEY, AND TO OTHERWISE DEPOSIT AND INVEST ITS
12 MONEY AS PERMITTED BY PART 6 OF ARTICLE 75 OF TITLE 24; AND

13 (l) TO HAVE AND EXERCISE ANY OTHER POWERS NECESSARY OR
14 INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES
15 GRANTED IN THIS SECTION.

16 **40-41-202. Mitigation of impacts - specific powers and duties**
17 **of authority - local advisory committees.** (1) IN ORDER TO MITIGATE
18 THE DIRECT IMPACTS TO COLORADO WORKERS AND LOCAL COMMUNITIES
19 RESULTING FROM THE RETIREMENT OF ELECTRIC GENERATING FACILITIES,
20 THE AUTHORITY HAS THE FOLLOWING SPECIFIC POWERS AND DUTIES:

21 (a) TO DETERMINE THE DIRECT IMPACTS THAT THE RETIREMENT OF
22 AN ELECTRIC GENERATING FACILITY OWNED BY AN INVESTOR-OWNED
23 UTILITY WILL HAVE ON COLORADO WORKERS AND COMMUNITIES AND TO
24 CONSULT WITH THE DEPARTMENT OF LOCAL AFFAIRS, LOCAL
25 GOVERNMENTS, ELECTRIC UTILITIES, LABOR UNIONS, AND ANY OTHER
26 PERSONS WHO POSSESS RELEVANT INFORMATION IN MAKING ANY SUCH
27 DETERMINATION;

1 (b) TO RECEIVE PAYMENTS FROM ELECTRIC UTILITIES REQUIRED TO
2 MAKE PAYMENTS TO THE AUTHORITY PURSUANT TO THE PROVISIONS OF A
3 FINANCING ORDER AND MAINTAIN A BALANCING ACCOUNT TO HOLD ANY
4 EXCESS MONEY NOT NEEDED IN THE SHORT RUN THAT HAS SEPARATE
5 SUBACCOUNTS FOR EACH ELECTRIC UTILITY THAT MAKES PAYMENTS TO
6 THE AUTHORITY; AND

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

18 (II) THE AUTHORITY SHALL NOT DISBURSE MONEY AS TRANSITION
19 ASSISTANCE TO THE DEPARTMENT OF LOCAL AFFAIRS OR A LOCAL
20 GOVERNMENT OR AGENCY OF LOCAL GOVERNMENT IF THE RECEIPT OF THE
21 MONEY WOULD TRIGGER OR INCREASE THE AMOUNT OF ANY REFUND OF
22 EXCESS STATE OR LOCAL GOVERNMENT REVENUE REQUIRED BY SECTION
23 20 OF ARTICLE X OF THE STATE CONSTITUTION, BUT MAY COMPENSATE
24 THE DEPARTMENT OR A LOCAL GOVERNMENT OR AGENCY OF LOCAL
25 GOVERNMENT FOR SERVICES CONTRACTED FOR PURSUANT TO SECTION
26 40-41-201 (3)(i).

27 (2) WHEN DETERMINING HOW BEST TO ADDRESS THE DIRECT

1 IMPACTS TO A LOCAL COMMUNITY RESULTING FROM THE RETIREMENT OF
2 ELECTRIC GENERATING FACILITIES AND PROVIDE TRANSITION ASSISTANCE,
3 THE AUTHORITY SHALL TAKE INTO CONSIDERATION THE ADVICE OF A
4 LOCAL ADVISORY COMMITTEE, WHICH THE AUTHORITY SHALL ESTABLISH
5 IN CONJUNCTION WITH EACH BOARD OF COUNTY COMMISSIONERS,
6 MUNICIPAL GOVERNING BODY, AND SCHOOL DISTRICT THAT INCLUDES ALL
7 OR A PORTION OF THE IMPACTED COMMUNITY. A LOCAL ADVISORY
8 COMMITTEE:

9 (a) CONSISTS OF ONE MEMBER APPOINTED BY EACH PARTICIPATING
10 BOARD OF COUNTY COMMISSIONERS, MUNICIPAL GOVERNING BODY, AND
11 SCHOOL DISTRICT;

12 (b) SHALL ADVISE THE AUTHORITY WITH RESPECT TO THE NATURE
13 AND SCOPE OF THE DIRECT IMPACTS TO THE COMMUNITY RESULTING FROM
14 THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY AND THE
15 DEVELOPMENT OF A TRANSITION ASSISTANCE PLAN FOR THE COMMUNITY;
16 AND

17 (c) MAY EITHER BE DISSOLVED BY THE AUTHORITY WHEN THE
18 TRANSITION ASSISTANCE IS COMPLETED OR MAINTAINED TO ADVISE THE
19 AUTHORITY REGARDING THE IMPLEMENTATION OF THE TRANSITION
20 ASSISTANCE.

21 **40-41-203. Voluntary contributions to authority by utilities.**

22 (1) UPON THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY, A
23 COLORADO ELECTRIC UTILITY MAY, AT ITS SOLE DISCRETION, TRANSFER
24 TO THE AUTHORITY AN AMOUNT OF UP TO FIFTEEN PERCENT OF THE NET
25 PRESENT VALUE OF OPERATIONAL SAVINGS CREATED BY THE RETIREMENT
26 OF THE ELECTRIC GENERATING FACILITY, WHETHER OR NOT THE UTILITY
27 HAS OBTAINED A FINANCING ORDER AND ISSUED CO-EIA BONDS IN

1 CONNECTION WITH THE RETIREMENT OF THE ELECTRIC GENERATING
2 FACILITY. A DECISION BY A COLORADO ELECTRIC UTILITY TO TRANSFER A
3 PERCENTAGE OF THE NET PRESENT VALUE OF OPERATING SAVINGS TO THE
4 AUTHORITY SHALL BE DEEMED BY THE COMMISSION TO BE A PRUDENT
5 ACTION BY THE UTILITY.

6 (2) FOR PURPOSES OF THIS SECTION, THE NET PRESENT VALUE OF
7 OPERATIONAL SAVINGS CREATED BY THE RETIREMENT OF AN ELECTRIC
8 GENERATING FACILITY IS THE NET PRESENT VALUE OF THE ANNUAL
9 DIFFERENCES BETWEEN THE ESTIMATED COST TO RATEPAYERS OF THE
10 CONTINUED OPERATION OF THE ELECTRIC GENERATING FACILITY MINUS
11 THE ESTIMATED COST OF ENERGY GENERATED OR PURCHASED TO REPLACE
12 THE ENERGY PREVIOUSLY GENERATED BY THE FACILITY.

13 **40-41-204. Reporting to general assembly.** NOTWITHSTANDING
14 THE PROVISIONS OF SECTION 24-1-136 (11), FOR ANY FISCAL YEAR IN
15 WHICH THE AUTHORITY HAS PROVIDED TRANSITION ASSISTANCE, THE
16 AUTHORITY, NO LATER THAN FEBRUARY 15 OF THE FOLLOWING FISCAL
17 YEAR, SHALL SUBMIT TO THE FINANCE COMMITTEES OF THE HOUSE OF
18 REPRESENTATIVES AND THE SENATE, THE TRANSPORTATION AND ENERGY
19 COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE AGRICULTURE,
20 NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, OR ANY
21 SUCCESSOR COMMITTEES, A REPORT THAT SETS FORTH A COMPLETE AND
22 DETAILED FINANCIAL AND OPERATING STATEMENT OF THE AUTHORITY
23 DURING THE FISCAL YEAR.

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

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

3 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
4 the context otherwise requires:

5 (15) (b) "Special purpose authority" includes, but is not limited to:

6 (XIX) THE COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY
7 CREATED PURSUANT TO SECTION 40-41-201 (1).

8 **SECTION 3. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2018 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.