

CHAPTER 329

PUBLIC UTILITIES

SENATE BILL 21-072

BY SENATOR(S) Hansen and Coram, Bridges, Jaquez Lewis, Pettersen, Priola, Rankin, Simpson, Winter;
also REPRESENTATIVE(S) Valdez A. and Catlin, Bennett, Bird, Boesenecker, Cutter, Exum, Froelich, Gray, Hooton, Jodeh,
Kipp, Lynch, McLachlan, Titone, Valdez D., Young.

AN ACT

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

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

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

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

(a) The construction or expansion:

(I) Is required to:

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

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

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

- (a) THE DESIGN, PLANNING, OR ENGINEERING OF THE TRANSMISSION FACILITIES;
- (b) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION FACILITIES; OR
- (c) ANY WORK PERFORMED IN RESPONSE TO A WARRANTY CLAIM.

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

40-5-108. Electric utility participation in organized wholesale markets required - conditions - authority of commission - legislative declaration - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ORGANIZED WHOLESALE MARKET" OR "OWM" MEANS A REGIONAL TRANSMISSION ORGANIZATION, ALSO KNOWN AS AN RTO, OR AN INDEPENDENT SYSTEM OPERATOR, ALSO KNOWN AS AN ISO, ESTABLISHED FOR THE PURPOSE OF COORDINATING AND EFFICIENTLY MANAGING THE DISPATCH AND TRANSMISSION OF ELECTRICITY AMONG PUBLIC UTILITIES ON A MULTISTATE OR REGIONAL BASIS AND THAT:

- (I) IS APPROVED BY THE FEDERAL ENERGY REGULATORY COMMISSION;
- (II) EFFECTS SEPARATE CONTROL OF TRANSMISSION FACILITIES FROM CONTROL OF GENERATION FACILITIES;

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

(IV) IMPROVES, TO THE EXTENT REASONABLY POSSIBLE, SERVICE RELIABILITY WITHIN COLORADO;

(V) IS OF SUFFICIENT SCOPE OR OTHERWISE OPERATES TO SUBSTANTIALLY INCREASE ECONOMICAL SUPPLY OPTIONS FOR CUSTOMERS;

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

(VII) IMPROVES EMISSION-REDUCTION AND CUSTOMER-SAVINGS BENEFITS TO COLORADO CUSTOMERS FROM OPERATION WITHIN THE WESTERN INTERCONNECTION WITHOUT SIGNIFICANTLY IMPAIRING ACTIONS TAKEN BY PUBLIC UTILITIES TO MEET THE EMISSION-REDUCTION GOALS OF SECTIONS 25-7-102 AND 40-2-125.5 AND TO CONTINUE TO ADVANCE THE OBJECTIVES OF THOSE SECTIONS;

(VIII) HAS AN INCLUSIVE AND OPEN STAKEHOLDER PROCESS THAT DOES NOT PLACE UNREASONABLE BURDEN ON, OR PRECLUDE MEANINGFUL PARTICIPATION BY, ANY STAKEHOLDER GROUP;

(IX) INCLUDES ALL TRANSMISSION AND GENERATION RESOURCES APPROVED, ACQUIRED, OR CONSTRUCTED AND IN SERVICE BY 2030 TO MEET THE EMISSION REDUCTION REQUIREMENTS OF SECTIONS 25-7-102 AND 40-2-125.5; AND

(X) CONSISTENT WITH AND IN SUPPORT OF FERC POLICIES AND ORDERS AND LOCAL PLANNING BY COLORADO PUBLIC UTILITIES, IS CAPABLE OF: PLANNING FOR IMPROVED EFFICIENCY OF USE, FUTURE EXPANSION, AND CONSIDERATION OF ALL OPTIONS FOR MEETING TRANSMISSION NEEDS; PROVIDING EFFECTIVE COST ALLOCATIONS THAT REFLECT BENEFITS OF TRANSMISSION INVESTMENTS; MAINTAINING REAL-TIME RELIABILITY OF THE ELECTRIC TRANSMISSION SYSTEM WHILE PROMOTING MORE EFFICIENT USE OF THE TRANSMISSION SYSTEM IN COLORADO AND NEIGHBORING AREAS IN THE WESTERN INTERCONNECTION; ENSURING COMPARABLE AND NONDISCRIMINATORY TRANSMISSION ACCESS AND NECESSARY SERVICES; MINIMIZING SYSTEM CONGESTION; AND FURTHER ADDRESSING REAL OR POTENTIAL TRANSMISSION CONSTRAINTS.

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

(I) IS A WHOLESALE ELECTRICITY SUPPLIER OR TRANSMITTER; AND

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

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

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

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

(B) THE COMMISSION HAS DETERMINED THAT REQUIRING THE TRANSMISSION UTILITY TO JOIN AN OWM IS NOT IN THE PUBLIC INTEREST BASED ON THE COMMISSION'S EVALUATION OF APPROPRIATE FACTORS, INCLUDING WHETHER THE OWM HAS ESTABLISHED POLICIES REGARDING TRACKING AND REPORTING OF EMISSIONS WITH A SYSTEM TO ATTRIBUTE EMISSIONS TO TRANSMISSION OWNERS, PROMOTING LOAD FLEXIBILITY AND DEMAND-SIDE RESOURCES, PROMOTING THE INTEGRATION OF CLEAN ENERGY RESOURCES, AND REDUCING THE COSTS AND INEFFICIENCIES OF TRANSACTIONS BETWEEN BALANCING AREAS AND BETWEEN MARKET CONSTRUCTS, IF ANY.

(b) THE COMMISSION IS DIRECTED TO PARTICIPATE ON BEHALF OF THE STATE OF COLORADO, AS IT DEEMS APPROPRIATE, IN PROCEEDINGS BEFORE THE FERC INVOLVING THE MANAGEMENT OF PHYSICAL CONNECTIONS, SHARING OF DATA, AND INTERPRETATION AND IMPLEMENTATION OF TARIFF AND BUSINESS PRACTICES BETWEEN OWMs WHOSE BOUNDARIES MEET WITHIN COLORADO.

(c) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE PARTICIPATION OF TRANSMISSION UTILITIES IN OWMs AND THE IMPLEMENTATION OF THE "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT", ARTICLE 42 OF THIS TITLE 40, WILL ASSIST TRANSMISSION UTILITIES AND THE COLORADO ELECTRIC TRANSMISSION AUTHORITY IN ENSURING THE RESILIENCE OF THE ELECTRIC GRID AND ITS RESISTANCE TO BOTH NATURAL DISASTERS AND INTENTIONAL ATTACKS. ACCORDINGLY, THE COMMISSION IS DIRECTED TO USE ALL AVAILABLE MEANS TO SUPPORT THESE ENTITIES IN PREPARING FOR, AND DOCUMENTING THEIR ABILITY TO MITIGATE, ANY THREATS IDENTIFIED IN THE COLORADO ENERGY ASSURANCE EMERGENCY PLAN.

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

(b) THE COMMISSION SHALL ALLOW A TRANSMISSION UTILITY THAT COMMENCES OPERATION WITH AN OWM TO COLLECT AND RETAIN A SPECIFIED PERCENTAGE OF THE DEMONSTRATED NET PRESENT VALUE SAVINGS ACCRUING TO COLORADO CUSTOMERS FROM PARTICIPATION IN THE OWM FOR A PERIOD OF FIVE YEARS BEGINNING ON THE DATE THE TRANSMISSION UTILITY COMMENCES OPERATION WITH

THE OWM. THE COMMISSION SHALL ALLOW A TRANSMISSION UTILITY TO RETAIN UP TO THIRTY-FIVE PERCENT OF SUCH SAVINGS IN YEARS ONE AND TWO, TWENTY-FIVE PERCENT IN YEAR THREE, AND TWENTY PERCENT IN YEARS FOUR AND FIVE.

(c) A TRANSMISSION UTILITY MAY APPLY TO THE COMMISSION TO IMPLEMENT A PROPOSED SHARED SAVINGS APPROACH AND TO ESTABLISH A PROCEEDING TO DETERMINE THE NET PRESENT VALUE SAVINGS ACCRUING TO COLORADO CUSTOMERS FROM THE PARTICIPATION OF THE TRANSMISSION UTILITY IN AN OWM FOR THE PERIOD BEGINNING ON THE DATE THE TRANSMISSION UTILITY COMMENCES OPERATION WITH THE OWM AND ENDING ON JULY 31, 2033.

(d) IN ANY PROCEEDING CONDUCTED BY THE COMMISSION UNDER SUBSECTION (3)(c) OF THIS SECTION, THE TRANSMISSION UTILITY SHALL HAVE THE BURDEN OF PROOF TO DEMONSTRATE NET PRESENT VALUE SAVINGS, AND INTERVENORS SHALL HAVE THE OPPORTUNITY TO PARTICIPATE AND OFFER EVIDENCE REGARDING THE TRANSMISSION UTILITY'S DEMONSTRATION OF NET PRESENT VALUE SAVINGS. THE COMMISSION SHALL ISSUE A FINAL ORDER DETERMINING THE AMOUNT OF NET PRESENT VALUE SAVINGS THAT A TRANSMISSION UTILITY MAY COLLECT AND RETAIN PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION.

(4) NOTHING IN THIS SECTION SHALL BE USED OR INTERPRETED BY THE COMMISSION TO DELAY OR IMPEDE ELECTRIC RESOURCE PLANNING PROCEEDINGS FILED ON OR BEFORE DECEMBER 31, 2025, INCLUDING THE APPROVAL, ACQUISITION, OR CONSTRUCTION OF GENERATION AND TRANSMISSION RESOURCES PRIOR TO A TRANSMISSION UTILITY'S ENTRY INTO AN OWM AND ANY ACQUISITIONS THAT ARE PART OF OR ANCILLARY TO AN ELECTRIC RESOURCE PLAN THAT INCLUDES A CLEAN ENERGY PLAN APPROVED PURSUANT TO SECTION 40-2-125.5 OR 25-7-102.

SECTION 3. In Colorado Revised Statutes, 40-15-601, **amend** (6) as follows:

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

(6) "Electric utility" ~~means a cooperative electric association, as defined in section 40-9.5-102~~ HAS THE MEANING SET FORTH IN SECTION 40-42-102 (8); EXCEPT THAT THE TERM DOES NOT INCLUDE AN INVESTOR-OWNED UTILITY, A MUNICIPALLY OWNED UTILITY, OR A MUNICIPALLY OWNED POWER AUTHORITY.

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

ARTICLE 42
Colorado Electric Transmission Authority Act

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

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

(1) "ACQUIRE" MEANS TO OBTAIN ELIGIBLE FACILITIES BY LEASE, CONSTRUCTION, RECONSTRUCTION, PURCHASE, OR, AS AUTHORIZED BY SECTION 40-42-104 (1)(p)

AND SUBJECT TO THE REQUIREMENTS OF ARTICLES 1 TO 7 OF TITLE 38, THE EXERCISE OF THE POWER OF EMINENT DOMAIN.

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

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

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

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

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

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

(8) "ELECTRIC UTILITY" MEANS AN ENTITY OPERATING FOR THE PURPOSE OF SUPPLYING OR TRANSMITTING ELECTRICITY TO THE PUBLIC FOR DOMESTIC, MECHANICAL, OR PUBLIC USES AND INCLUDES A MUNICIPALLY OWNED UTILITY, A TRANSMISSION UTILITY, AS DEFINED IN SECTION 40-5-108 (1)(b), A COOPERATIVE ELECTRIC ASSOCIATION, A WHOLESALE ELECTRIC COOPERATIVE, AS DEFINED IN SECTION 40-2-136 (3)(c), A NONPROFIT ELECTRIC CORPORATION OR ASSOCIATION, AND EVERY OTHER VERTICALLY INTEGRATED SUPPLIER OF ELECTRIC ENERGY SUPPLYING ELECTRIC ENERGY FOR ITS CUSTOMERS OR FOR THE USE OF ITS OWN MEMBERS.

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

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

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

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

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

(14) "PROJECT" MEANS AN UNDERTAKING BY THE AUTHORITY TO FINANCE OR TO

PLAN, ACQUIRE, MAINTAIN, AND OPERATE ELIGIBLE FACILITIES LOCATED PARTLY OR ENTIRELY WITHIN COLORADO.

(15) "STORAGE" HAS THE SAME MEANING AS "ENERGY STORAGE SYSTEM" AS DEFINED IN SECTION 40-2-202 (2).

40-42-103. Authority - creation - board - open meetings and open records.

(1) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY IS HEREBY CREATED AS AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE. THE AUTHORITY IS A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE POWERS AS AUTHORIZED BY THIS ARTICLE 42 IS THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. THE AUTHORITY IS A POLITICAL SUBDIVISION OF THE STATE, IS NOT AN AGENCY OF STATE GOVERNMENT, AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40-42-104. General and specific powers and duties of the authority.

(1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE 42, THE AUTHORITY, ACTING THROUGH THE BOARD, HAS THE POWER TO:

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

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

(c) ESTABLISH REASONABLE ADMINISTRATIVE AND PROCEDURAL BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR THE CONDUCT OF ITS AFFAIRS AND BUSINESS;

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

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

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

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

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

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

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

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

(i) FIX THE TIME AND PLACE OR PLACES AT WHICH ITS REGULAR AND SPECIAL MEETINGS ARE TO BE HELD;

(j) HIRE A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO HIRE OTHER STAFF AS NECESSARY FOR THE OPERATION OF THE AUTHORITY;

(k) USE THE SERVICES OF EXECUTIVE DEPARTMENTS OF THE STATE UPON MUTUALLY AGREEABLE TERMS AND CONDITIONS;

(l) ENTER INTO PARTNERSHIPS WITH PUBLIC OR PRIVATE ENTITIES;

(m) IDENTIFY AND ESTABLISH CORRIDORS FOR THE TRANSMISSION OF ELECTRICITY WITHIN THE STATE, SUBJECT TO SITING AND LAND USE APPROVAL BY THE LOCAL GOVERNMENT WITH SITING AND LAND USE AUTHORITY PURSUANT TO ARTICLE 65.1 OF TITLE 24;

(n) THROUGH PARTICIPATION IN APPROPRIATE REGIONAL TRANSMISSION FORUMS AND OTHER ORGANIZATIONS, INCLUDING ORGANIZED WHOLESALE MARKETS, AS DEFINED IN SECTION 40-5-108 (1)(a), COORDINATE, INVESTIGATE, PLAN, PRIORITIZE,

AND NEGOTIATE WITH ENTITIES WITHIN AND OUTSIDE COLORADO FOR THE ESTABLISHMENT OF INTERSTATE TRANSMISSION CORRIDORS AND ENGAGE IN OTHER TRANSMISSION PLANNING ACTIVITIES THAT WOULD INCREASE GRID RELIABILITY, HELP COLORADO MEET ITS CLEAN ENERGY GOALS, AND AID IN ECONOMIC DEVELOPMENT;

(o) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, CONDUCT A TRANSPARENT AND COMPETITIVE PROCESS TO SELECT A QUALIFIED TRANSMISSION OPERATOR, AS DEFINED BY THE COMMISSION, TO ASSUME THE RESPONSIBILITY TO CARRY OUT ALL REQUIRED FINANCING, PLANNING, ACQUISITION, MAINTENANCE, AND OPERATION OF ELIGIBLE FACILITIES NECESSARY OR USEFUL FOR THE ACCOMPLISHMENT OF THE PURPOSES OF THIS ARTICLE 42;

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

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

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

(II) SAFE WORK PRACTICES; AND

(III) EMERGENCY PROCEDURES;

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

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

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

(u) CONSIDER OPTIONS AND ALTERNATIVES, INCLUDING THROUGH STUDIES CONTRACTED WITH INDEPENDENT EXPERT ANALYSTS, TO INCREASE THE EFFICIENT USE OF THE TRANSMISSION SYSTEM AND RELIEVE CONSTRAINTS ON THE TRANSMISSION SYSTEM, WHICH OPTIONS AND ALTERNATIVES MAY INCLUDE STORAGE AND ADVANCED TRANSMISSION TECHNOLOGIES; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) (a) AN ELECTRIC UTILITY THAT IS SUBJECT TO RATE REGULATION BY THE COMMISSION MAY RECOVER THE CAPITAL COST OF A PROJECT UNDERTAKEN PURSUANT TO THIS ARTICLE 42 FROM ITS RETAIL CUSTOMERS ONLY IF THE PROJECT HAS RECEIVED A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE COMMISSION. AN ELECTRIC UTILITY THAT IS A MUNICIPALLY OWNED UTILITY EXEMPT FROM REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE PROJECT HAS BEEN APPROVED BY THE GOVERNING BODY OF THE MUNICIPALITY. A COOPERATIVE ELECTRIC ASSOCIATION EXEMPT FROM REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE PROJECT HAS BEEN APPROVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE ELECTRIC ASSOCIATION.

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

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

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

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

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

(2) (a) BONDS MAY BE EXECUTED AND DELIVERED BY THE AUTHORITY AT SUCH TIMES; MAY BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS AND MATURITIES; MAY BE SUBJECT TO OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM; MAY BE IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH; MAY BEAR SUCH CONVERSION PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH TIMES NOT EXCEEDING THIRTY YEARS; MAY BE PAYABLE AT SUCH PLACE OR

PLACES WHETHER WITHIN OR WITHOUT THE STATE; MAY BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS DETERMINED BY THE AUTHORITY OR ITS AGENTS, WITHOUT REGARD TO ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE; MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE AUTHORITY; MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME; MAY BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF THE AUTHORITY; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT WITH THIS ARTICLE 42, ALL AS PROVIDED IN THE RESOLUTION OF THE AUTHORITY UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.

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

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

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

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

(IV) ALL BONDS AND ANY INTEREST COUPONS APPLICABLE TO THE BONDS ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

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

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

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

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

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

(B) FEES AND SERVICE CHARGES COLLECTED;

(C) BOND PROCEEDS;

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

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

(II) THE AUTHORITY MAY CREATE SEPARATE ACCOUNTS WITHIN THE BONDING FUND IN CONNECTION WITH ANY ISSUANCE OF BONDS AND MAY DEPOSIT IN THE SEPARATE ACCOUNTS REVENUE RECEIVED BY THE AUTHORITY FROM THE FINANCING OR LEASING OF ELIGIBLE FACILITIES. ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO THE ACCOUNT.

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

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

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

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

(4) TWICE ANNUALLY THE AUTHORITY SHALL ESTIMATE THE AMOUNTS NEEDED TO MAKE DEBT SERVICE AND OTHER PAYMENTS ON BONDS DURING THE NEXT

TWELVE MONTHS FROM THE BONDING FUND AND FROM ANY SEPARATE ACCOUNT CREATED IN THE BONDING FUND PLUS THE AMOUNT THAT MAY BE NEEDED FOR ANY REQUIRED RESERVES OR OTHER REQUIREMENTS AS MAY BE SET FORTH IN THE TRUST INDENTURE RELATED TO THE BONDS. THE AUTHORITY SHALL TRANSFER TO THE ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND ANY BALANCE IN THE BONDING FUND OR ANY SEPARATE ACCOUNT CREATED IN THE BONDING FUND ABOVE THE ESTIMATED AMOUNTS. PAYMENTS FOR ADMINISTRATIVE COSTS SHALL BE DEPOSITED IN THE OPERATIONAL FUND.

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

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

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

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

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

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

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

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

(a) ITS CURRICULUM INCLUDES REQUIREMENTS FOR COMPLETION OF:

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

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

(b) SUPERVISION OF APPRENTICES MEETS THE FOLLOWING STANDARDS:

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

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

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

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

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

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

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

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

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

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

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

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

(XIX) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY CREATED IN SECTION 40-42-103 (1).

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

38-1-202. Governmental entities, corporations, and persons authorized to use eminent domain. (1) The following governmental entities, types of governmental entities, and public corporations, in accordance with all procedural

and other requirements specified in this article 1 and articles 2 to 7 of this title 38 and to the extent and within any time frame specified in the applicable authorizing statute, may exercise the power of eminent domain:

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

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

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

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

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

38-5-104. Right-of-way across private lands. (1) ~~Such~~ A telegraph, telephone, electric light, power, gas, or pipeline company, AN ELECTRIC TRANSMISSION AUTHORITY, or ~~such~~ A city or town ~~shall be~~ IS entitled to the right-of-way over or under the land, property, privileges, rights-of-way, and easements of other persons and corporations and to the right to erect its poles, wires, pipes, regulator stations, substations, systems, and offices upon making just compensation therefor in the manner provided by law. WHEN A RIGHT-OF-WAY IS TAKEN UNDER THIS SECTION FOR AN INTERSTATE ELECTRIC TRANSMISSION LINE, THE COURT SHALL EVALUATE PUBLIC PURPOSE IN LIGHT OF THE TRANSMISSION SYSTEM AS A WHOLE, INCLUDING PUBLIC USE AND BENEFITS OCCURRING EITHER WITHIN COLORADO OR AT A REGIONAL LEVEL. The rights granted by this section and section 38-5-105 to such electric light, power, gas, or pipeline companies or to such cities and towns shall not extend to the taking of any portion of the right-of-way of a railroad company, except to the extent of acquiring any necessary easement to cross the same or to serve such railroad company with electric light, power, or gas service. The rights granted by this section and section 38-5-105 to telegraph or telephone companies shall not extend to the taking of any portion of the right-of-way of a railroad company, except to the extent of acquiring any easement which does not materially interfere with the existing use by the railroad company, or except to the extent of acquiring any necessary easement to cross the same or to serve such railroad company with telegraph or telephone service.

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

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

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

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

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

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

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

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

Approved: June 24, 2021