

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

ENGROSSED

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

LLS NO. 23-0876.02 Jennifer Berman x3286

SENATE BILL 23-291

SENATE SPONSORSHIP

Fenberg and Cutter,

HOUSE SPONSORSHIP

deGruy Kennedy and Martinez,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PUBLIC UTILITIES COMMISSION'S REGULATION OF**
102 **ENERGY UTILITIES, AND, IN CONNECTION THEREWITH, MAKING**
103 **AN APPROPRIATION.**

Bill Summary

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

Section 1 of the bill requires the public utilities commission (commission), if relying on a discount rate when calculating the net present value of future fuel costs as part of a utility's electric resource plan, to apply a discount rate that does not exceed the long-term rate of inflation.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

SENATE
Amended 2nd Reading
April 25, 2023

Section 2 requires the commission to establish mechanisms, guidelines, or rules to limit the amount of rate case expenses that an investor-owned electric or gas utility may recover from the utility's customers.

Section 3 prohibits an investor-owned electric or gas utility from recovering various costs from its customers, including:

- More than 50% of annual total compensation or of expense reimbursement for a utility's board of directors;
- Tax penalties or fines issued against the utility;
- Certain advertising and public relations expenses;
- Lobbying and other expenses intended to influence the outcome of local, state, or federal legislation or ballot measures;
- Certain organizational and membership dues;
- Travel, lodging, food, or beverage expenses for the utility's board of directors and officers; and
- Gift or entertainment expenses.

If an investor-owned utility recovers prohibited costs, the commission is required to assess a nonrecoverable penalty against the utility in an amount that is not less than the total amount improperly recovered and order the utility to refund the amount improperly recovered to its customers, plus interest.

Section 4 requires that, on or before November 1, 2023, an investor-owned gas utility file with the commission for the commission's approval, amendment, or denial a gas price risk management plan that includes proposals for addressing the volatility of fuel costs recovered from the utility's ratepayers.

Section 4 requires the commission to adopt rules, on or before January 1, 2025, to:

- Help protect investor-owned gas utility customers from the volatility of gas prices by establishing a mechanism that aligns an investor-owned utility's financial incentives with the financial interests of its customers; and
- Establish a mechanism to create a financial incentive for an investor-owned utility to improve its electricity production cost efficiency while minimizing its fuel costs.

As part of its rules, the commission may also consider requiring each investor-owned electric utility to bear a percentage of its total fuel costs in order to incentivize the utility to find efficiencies and reduce fuel waste.

Section 4 also requires the commission to open a proceeding to investigate the extent to which residential and other development in certain geographic areas drive natural gas infrastructure costs for any natural gas utility that serves more than 500,000 customers in the state.

Section 5 requires:

- On or before December 31, 2023, each regulated gas utility to remove from the utility's rate tariffs any incentives offered to an applicant applying for natural gas service to establish gas service to a property;
- The Colorado energy office to contract with an independent third party, on or before July 1, 2024, to evaluate the risk that stranded or underutilized natural gas infrastructure investments pose and the annual projected rate impact that such stranded assets have on ratepayers;
- The commission to determine whether any changes to rules or depreciation schedules are warranted based on its review of the evaluation contracted by the Colorado energy office;
- An investor-owned gas utility to provide the commission information, including a map, about the utility's gas distribution system pipes;
- An investor-owned gas utility to refrain from penalizing or charging a fee to a customer that voluntarily terminates gas service. The commission may adopt rules to establish standards for a customer's voluntary disconnection from an investor-owned gas utility's gas distribution system.
- On or before July 1, 2024, the commission to examine existing investor-owned electric utility tariffs, policies, and practices to determine if the tariffs, policies, and practices pose a barrier to the beneficial electrification of buildings with respect to charges imposed for the cost of transformer or service upgrades.

Section 6 authorizes the commission to allow a wholesale customer of an investor-owned utility to intervene in a proceeding regarding the commission's consideration of the investor-owned utility's application for cost recovery from customers.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 40-2-138 as
 3 follows:

4 **40-2-138. Investor-owned utility electric resource planning -**
 5 **maximum discount rate authorized.** IF THE COMMISSION RELIES ON THE
 6 USE OF A DISCOUNT RATE WHEN CALCULATING NET PRESENT VALUE OF
 7 FUTURE CARBON-BASED FUEL COSTS IN AN ELECTRIC RESOURCE PLAN, THE
 8 DISCOUNT RATE MUST NOT EXCEED THE LONG-TERM RATE OF INFLATION,

1 AS DETERMINED BY THE COMMISSION.

2 **SECTION 2.** In Colorado Revised Statutes, **add 40-3-102.5** as
3 follows:

4 **40-3-102.5. Limiting rate case expenses for investor-owned**
5 **utilities - information included in rate case filings - gas cost or electric**
6 **commodity adjustment filings - rules - definitions.** (1) **Limiting**
7 **recovery of rate case expenses.** (a) THE COMMISSION SHALL ESTABLISH
8 RULES TO LIMIT THE AMOUNT OF RATE CASE EXPENSES THAT A UTILITY
9 MAY RECOVER FROM RATEPAYERS. IN ESTABLISHING THE RULES, THE
10 COMMISSION MAY CONSIDER:

11 (I) IMPLEMENTING A SYMMETRICAL INCENTIVE TO MOTIVATE THE
12 UTILITY TO LIMIT EXPENSES;

13 (II) LIMITING THE AMOUNT OF EXPENSES FOR OUTSIDE EXPERTS,
14 CONSULTANTS, AND LEGAL RESOURCES THAT ARE RECOVERABLE;

15 (III) SETTING AN OVERALL PERCENTAGE OF THE UTILITY'S
16 EXPENSES IN A RATE CASE THAT ARE NOT RECOVERABLE;

17 (IV) ESTABLISHING DISCOVERY PARAMETERS AND WHAT
18 INFORMATION IN A COMMISSION PROCEEDING MUST BE DISCLOSED TO
19 INTERVENERS OR TO THE COMMISSION TO REDUCE TIME AND COSTS
20 ASSOCIATED WITH A LENGTHY DISCOVERY PROCESS, WHICH INFORMATION
21 MAY INCLUDE:

22 (A) A SOURCE MODEL SHOWING ALL RATE ADJUSTMENTS;

23 (B) EXECUTABLE SPREADSHEETS, ALSO REFERRED TO AS
24 WORKPAPERS, WITH LINKS AND FORMULAS INTACT;

25 (C) A TEST YEAR BASED ON A RECENTLY COMPLETED
26 TWELVE-MONTH PERIOD AND FOR WHICH ACTUAL COSTS AND
27 INVESTMENTS ARE ANALYZED; AND

1 (D) ANY OTHER INFORMATION OR DOCUMENTATION, AS
2 DETERMINED BY THE COMMISSION; OR

3 (V) REQUIRING A TECHNICAL CONFERENCE WITH INTERVENING
4 PARTIES TO ADDRESS INTERVENING PARTIES' QUESTIONS AND TO PROVIDE
5 THE ABILITY FOR INTERVENERS TO ANALYZE THE UTILITY'S ASSUMPTIONS
6 AND CALCULATIONS SUPPORTING A RATE CASE FILING.

7 (b) BEFORE THE COMMISSION MAY DETERMINE THAT AN
8 INVESTOR-OWNED UTILITY'S APPLICATION TO MODIFY BASE RATES IS
9 COMPLETE, THE COMMISSION SHALL CERTIFY THAT, FOR COMPARISON OF
10 TEST YEARS AND OTHER PURPOSES, THE FILING INCLUDES SUFFICIENT
11 INFORMATION, INCLUDING A COMPREHENSIVE COST AND REVENUE
12 REQUIREMENT ANALYSIS BASED ON ACTUAL, AUDITABLE, HISTORICAL
13 DATA, WHICH ANALYSIS MUST BE ACCOMPANIED BY APPROPRIATE
14 WORKPAPERS AND OTHER SUPPORTING MATERIALS.

15 (c) NOTHING IN THIS SECTION PROHIBITS A UTILITY FROM
16 INCLUDING MULTIPLE TEST YEARS FOR ANALYSIS OR CONSIDERATION IN A
17 RATE CASE FILING, INCLUDING INCLUSION OF A FUTURE TEST YEAR.

18 (d) AS USED IN THIS SUBSECTION (1):

19 (I) "BASE RATE" MEANS CHARGES USED TO RECOVER COSTS OF
20 UTILITY INFRASTRUCTURE AND OPERATIONS, INCLUDING A RETURN ON
21 CAPITAL INVESTMENT, NOT OTHERWISE RECOVERED THROUGH A UTILITY
22 RATE RIDER OR RATE ADJUSTMENT MECHANISM.

23 (II) "TEST YEAR" MEANS A TWELVE-MONTH PERIOD THAT IS
24 EXAMINED TO DETERMINE A UTILITY'S COSTS OF SERVICE IN A RATE CASE.

25 (III) "UTILITY" MEANS AN INVESTOR-OWNED ELECTRIC OR GAS
26 UTILITY.

27 (2) **Requirements for filings to increase a rate, charge, fee,**

1 **fare, toll, rental, or classification.** (a) AT THE TIME OF FILING A REQUEST
2 TO INCREASE ANY RATE, CHARGE, FEE, FARE, TOLL, RENTAL, OR
3 CLASSIFICATION, THE UTILITY SHALL PROVIDE THE COMMISSION A RATE
4 TREND REPORT FOR THE PREVIOUS TEN YEARS REGARDING ANY
5 HISTORICAL INCREASES OR DECREASES OF THE RATE, CHARGE, FEE, FARE,
6 TOLL, RENTAL, OR CLASSIFICATION, INCLUDING:

- 7 (I) THE AMOUNT OF EACH APPROVED INCREASE OR DECREASE;
- 8 (II) THE INCREMENTAL INCREASE OR DECREASE FROM THE MOST
9 RECENT APPROVED CHANGE;
- 10 (III) THE DATES THAT EACH APPROVED INCREASE OR DECREASE
11 WENT INTO EFFECT;
- 12 (IV) THE PROCEEDING NUMBER RELATED TO EACH APPROVED
13 INCREASE OR DECREASE;
- 14 (V) A CHART, GRAPH, OR OTHER VISUALIZATION DEMONSTRATING
15 THE TEN-YEAR HISTORICAL TREND REGARDING EACH RATE, CHARGE, FEE,
16 FARE, TOLL, RENTAL, OR CLASSIFICATION, INCLUDING ALL UTILITY BILL
17 LINE ITEMS SUCH AS RATES AND RATE RIDERS; AND
- 18 (VI) FOR EACH OF THE TEN YEARS, THE ANNUAL TOTAL AMOUNT
19 OF THE RATE, CHARGE, FEE, FARE, TOLL, RENTAL, OR CLASSIFICATION.

20 (b) EACH UTILITY SHALL POST AND KEEP CURRENT ON ITS WEBSITE
21 THE RATE TREND REPORT DATA, INCLUDING THE CHART, GRAPH, OR OTHER
22 VISUALIZATION DEMONSTRATING THE TEN-YEAR HISTORICAL TREND
23 SUBMITTED AS PART OF THE RATE TREND REPORT. ANY VISUALIZATION
24 MUST INCLUDE ALL UTILITY BILL LINE ITEMS, INCLUDING ALL RATES AND
25 RATE RIDERS.

26 (3) **Gas cost or electric commodity adjustment filing**
27 **requirements.** A UTILITY THAT FILES A GAS COST ADJUSTMENT FILING OR

1 AN ELECTRIC COMMODITY ADJUSTMENT FILING SHALL PROVIDE COPIES OF
2 ALL CONFIDENTIAL MATERIALS AND ALL EXECUTABLE MATERIALS
3 RELATED TO THE FILING TO THE COMMISSION'S STAFF AND THE OFFICE OF
4 THE UTILITY CONSUMER ADVOCATE CREATED IN SECTION 40-6.5-102 (1).

5 **SECTION 3.** In Colorado Revised Statutes, **amend** 40-3-114 as
6 follows:

7 **40-3-114. Cost recovery - prohibitions - reporting - penalties**
8 **- definitions.** (1) The commission shall ensure that regulated electric and
9 gas utilities do not use ratepayer funds to subsidize nonregulated
10 activities.

11 (2) A UTILITY SHALL NOT RECOVER THE FOLLOWING COSTS FROM
12 ITS CUSTOMERS, WHETHER AS PART OF PROPOSED BASE RATE COSTS, A
13 RIDER, OR OTHER CHARGES:

14 (a) MORE THAN FIFTY PERCENT OF ANNUAL TOTAL COMPENSATION
15 OR OF EXPENSE REIMBURSEMENT FOR MEMBERS OF THE BOARD OF
16 DIRECTORS OF THE UTILITY;

17 (b) TAX PENALTIES OR FINES ISSUED AGAINST THE UTILITY;

18 (c) INVESTOR-RELATION EXPENSES;

19 (d) ADVERTISING AND PUBLIC RELATIONS EXPENSES THAT DO NOT
20 DIRECTLY RELATE TO A PURPOSE OR PROGRAM THAT IS REQUIRED OR
21 AUTHORIZED UNDER STATUTE OR COMMISSION RULE OR ORDER.
22 ADVERTISING AND PUBLIC RELATIONS EXPENSES FOR WHICH COST
23 RECOVERY IS PROHIBITED INCLUDE:

24 (I) COMMUNICATIONS TO PROMOTE OR IMPROVE THE UTILITY'S
25 BRAND;

26 (II) EXPENSES FOR THE PURPOSE OF INFLUENCING PUBLIC OPINION
27 ABOUT THE UTILITY; AND

1 (III) EXPENSES INTENDED TO CREATE GOOD WILL TOWARD THE
2 UTILITY FROM THE GENERAL PUBLIC.

3 (e) EXPENSES FOR LOBBYING OR OTHER ACTIVITIES MEANT TO
4 INFLUENCE THE OUTCOME OF ANY LOCAL, STATE, OR FEDERAL
5 LEGISLATION, ORDINANCE, RESOLUTION, OR BALLOT MEASURE;

6 (f) CHARITABLE GIVING EXPENSES, INCLUDING CONTRIBUTIONS TO
7 ORGANIZATIONS QUALIFIED UNDER SECTION 501 (c)(3) OR 501 (c)(4) OF
8 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501,
9 AS AMENDED;

10 (g) ORGANIZATIONAL OR MEMBERSHIP DUES, OR OTHER
11 CONTRIBUTIONS, TO ANY ORGANIZATION, ASSOCIATION, INSTITUTION,
12 CORPORATION, OR OTHER ENTITY THAT ENGAGES IN LOBBYING OR OTHER
13 SIMILAR ACTIVITIES INTENDED TO INFLUENCE THE OUTCOME OF ANY
14 LOCAL, STATE, OR FEDERAL LEGISLATION, ORDINANCE, RESOLUTION, RULE,
15 BALLOT MEASURE, OR OTHER REGULATORY DECISION;

16 (h) CONTRIBUTIONS TO POLITICAL CANDIDATES, CAMPAIGN
17 COMMITTEES, ISSUE COMMITTEES, OR INDEPENDENT EXPENDITURE
18 COMMITTEES OR SIMILAR POLITICAL EXPENSES;

19 (i) TRAVEL, LODGING, FOOD, AND BEVERAGE EXPENSES FOR THE
20 UTILITY'S BOARD OF DIRECTORS AND OFFICERS;

21 (j) ENTERTAINMENT OR GIFT EXPENSES;

22 (k) EXPENSES RELATED TO ANY OWNED, LEASED, OR CHARTERED
23 AIRCRAFT FOR THE UTILITY'S BOARD OF DIRECTORS AND OFFICERS; OR

24 (l) EXPENSES RELATED TO MARKETING AND ADMINISTRATION OR
25 CUSTOMER SERVICE FOR UNREGULATED PRODUCTS OR SERVICES PROVIDED
26 OR SOLD BY THE UTILITY OR THE UTILITY'S AFFILIATES.

27 (3) SUBSECTIONS (2)(g) AND (2)(h) OF THIS SECTION SHALL NOT

1 BE CONSTRUED TO APPLY TO A UTILITY EMPLOYEE'S OR CONTRACT
2 WORKER'S ACTIVITIES RESULTING FROM ANY VOLUNTARY DUES
3 DEDUCTIONS THAT ARE PROCESSED THROUGH STANDARD PAYROLL
4 PROCESSES.

5 (4) (a) NOTWITHSTANDING PENALTIES SET FORTH IN ARTICLE 7 OF
6 THIS TITLE 40, IF THE COMMISSION DETERMINES THAT A UTILITY
7 IMPROPERLY RECOVERED COSTS PURSUANT TO SUBSECTION (2) OF THIS
8 SECTION, THE COMMISSION MAY ASSESS A NONRECOVERABLE PENALTY
9 AGAINST THE UTILITY.

10 (b) IN ADDITION TO ASSESSING A NONRECOVERABLE PENALTY
11 AGAINST A UTILITY PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE
12 COMMISSION SHALL ORDER THE UTILITY TO REFUND THE AMOUNT
13 IMPROPERLY RECOVERED PURSUANT TO SUBSECTION (2) OF THIS SECTION,
14 PLUS INTEREST, TO CUSTOMERS.

15 (5) THE COMMISSION SHALL REQUIRE A UTILITY TO FILE AN
16 ANNUAL REPORT WITH THE COMMISSION TO ENSURE THE UTILITY'S
17 COMPLIANCE WITH THIS SECTION. THE REPORT MUST INCLUDE THE
18 PURPOSE, PAYEE, AND AMOUNT OF ANY EXPENSES ASSOCIATED WITH THE
19 COSTS AND ACTIVITIES THAT ARE NOT PERMITTED TO BE RECOVERED FROM
20 CUSTOMERS PURSUANT TO THIS SECTION.

21 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

23 (a) (I) "ADVERTISING" MEANS THE ACT OF PUBLISHING,
24 DISSEMINATING, SOLICITING, OR CIRCULATING WRITTEN, ONLINE, VIDEO,
25 OR AUDIO COMMUNICATION INTENDED TO INDUCE A PERSON TO PATRONIZE
26 A PRODUCT, SERVICE, BUSINESS, OR INDUSTRY; PROMOTE A BUSINESS'S
27 BRAND; OTHERWISE EMPHASIZE DESIRABLE QUALITIES ABOUT A PRODUCT,

1 SERVICE, BUSINESS, OR INDUSTRY; OR INFLUENCE PUBLIC OPINION WITH
2 RESPECT TO LEGISLATIVE, ADMINISTRATIVE, OR ELECTORAL MATTERS.

3 (II) "ADVERTISING" DOES NOT INCLUDE:

4 (A) ADVERTISING REQUIRED OR AUTHORIZED BY LAW,
5 REGULATION, OR ORDER;

6 (B) ADVERTISING DIRECTLY RELATED TO A PURPOSE OR PROGRAM
7 REGARDING INCOME-BASED SERVICE, SPECIAL RATES, PILOT PROGRAMS,
8 ENERGY CONSERVATION, ENERGY EFFICIENCY, BENEFICIAL
9 ELECTRIFICATION, RENEWABLE ENERGY, TRANSPORTATION
10 ELECTRIFICATION, OR OTHER CONSUMER EDUCATION INFORMATION;

11 (C) ADVERTISING REGARDING SERVICE INTERRUPTIONS, SAFETY
12 MEASURES, OR EMERGENCY CONDITIONS; OR

13 (D) ADVERTISING CONCERNING EMPLOYMENT OPPORTUNITIES
14 WITH THE UTILITY.

15 (b) "AIRCRAFT" HAS THE MEANING SET FORTH IN SECTION
16 41-2-101 (1).

17 (c) "BASE RATE" HAS THE MEANING SET FORTH IN SECTION
18 40-3-102.5 (1)(d)(I).

19 (d) "ELECTRIC UTILITY" MEANS AN INVESTOR-OWNED ELECTRIC
20 UTILITY IN THE STATE.

21 (e) "EXPENSES" MEANS ANY PAYMENT MADE IN THE FORM OF
22 COMPENSATION THAT A UTILITY PAYS TO AN EXTERNAL FIRM, A
23 CORPORATE AFFILIATE, OR AN EMPLOYEE OF THE UTILITY.

24 (f) "GAS UTILITY" MEANS AN INVESTOR-OWNED GAS UTILITY IN
25 THE STATE.

26 (g) "LOBBYING" MEANS DIRECTLY, OR THROUGH THE SOLICITATION
27 OF OTHERS, COMMUNICATING WITH A PERSON THAT IS IN A POSITION TO

1 MAKE A POLICY DECISION IN ORDER TO INFLUENCE THE OUTCOME OF
2 LOCAL, STATE, OR FEDERAL LEGISLATION.

3 (h) "RATE CASE" MEANS A FORMAL HEARING OF THE COMMISSION
4 TO DETERMINE IF THE BASE RATES OF AN ELECTRIC UTILITY OR GAS
5 UTILITY ARE JUST AND REASONABLE PURSUANT TO SECTION 40-3-101.

6 (i) "RIDER" MEANS A CHARGE ADDED TO A UTILITY BILL TO
7 RECOVER A SPECIFIC COST THAT IS NOT PART OF THE BASE RATE.

8 (j) "UTILITY" MEANS AN INVESTOR-OWNED ELECTRIC UTILITY OR
9 GAS UTILITY IN THE STATE.

10 **SECTION 4.** In Colorado Revised Statutes, **add** 40-3-120 and
11 40-3-121 as follows:

12 **40-3-120. Fuel cost sharing - gas utilities- electric utilities -**
13 **rules.** (1) (a) ON OR BEFORE NOVEMBER 1, 2023, AN INVESTOR-OWNED
14 GAS UTILITY SHALL FILE WITH THE COMMISSION A GAS PRICE RISK
15 MANAGEMENT PLAN THAT INCLUDES PROPOSALS FOR LEVELING OR
16 REDUCING THE VOLATILITY OF FUEL COSTS THAT ARE RECOVERED
17 PURSUANT TO THE UTILITY'S GAS COST ADJUSTMENT FILINGS. SUCH PLAN
18 MUST INCLUDE A MAXIMUM PER-MONTH FUEL COST THAT ACCOUNTS FOR
19 PRICE FLUCTUATIONS BASED ON SEASONALITY AND CAN BE
20 AUTOMATICALLY RECOVERED THROUGH THE GAS COST ADJUSTMENT
21 MECHANISM. THE PLAN MAY INCLUDE OTHER ELEMENTS SUCH AS
22 PHYSICAL HEDGING, FINANCIAL HEDGING, FUEL STORAGE, OR LONG-TERM
23 CONTRACTING.

24 (b) THE COMMISSION SHALL ALLOW ANY PRUDENTLY INCURRED
25 COSTS ABOVE THE MAXIMUM MONTHLY FUEL COST INCLUDED IN AN
26 INVESTOR-OWNED GAS UTILITY'S PLAN PURSUANT TO SUBSECTION (1)(a)
27 OF THIS SECTION TO BE RECORDED IN A DEFERRED BALANCE THAT IS

1 RECOVERABLE AND AMORTIZED OVER AN APPROPRIATE TIMELINE OF NO
2 MORE THAN FIVE YEARS WITH FINANCING COSTS, AS DETERMINED BY THE
3 COMMISSION.

4 (c) THE COMMISSION SHALL APPROVE, AMEND, OR DENY A PLAN
5 SUBMITTED PURSUANT TO THIS SUBSECTION (1) BASED ON A _____
6 DETERMINATION OF THE BEST INTERESTS OF A UTILITY'S RATEPAYERS,
7 INSOFAR AS THE COMMISSION FINDS THAT THE PLAN IS IN THE PUBLIC
8 INTEREST.

9 (2) (a) ON OR BEFORE JANUARY 1, 2025, THE COMMISSION SHALL
10 ADOPT RULES TO ESTABLISH MECHANISMS TO ALIGN THE FINANCIAL
11 INCENTIVES OF AN INVESTOR-OWNED ELECTRIC OR GAS UTILITY WITH THE
12 INTERESTS OF THE UTILITY'S CUSTOMERS REGARDING INCURRED FUEL
13 COSTS.

14 (b) THE MECHANISMS ESTABLISHED BY RULE PURSUANT TO
15 SUBSECTION (2)(a) OF THIS SECTION MUST BE DESIGNED TO PROTECT
16 CUSTOMERS AND TO IMPROVE THE UTILITY'S MANAGEMENT OF FUEL
17 COSTS. THE COMMISSION MAY TAILOR THE MECHANISMS TO APPLY TO
18 DIFFERENT UTILITIES BASED ON A UTILITY'S SIZE OR ABILITY TO
19 IMPLEMENT THE MECHANISMS.

20 (c) THE COMMISSION MAY ESTABLISH A SYMMETRICAL INCENTIVE
21 FOR THE UTILITY TO SUCCESSFULLY IMPLEMENT THE MECHANISMS.

22 (3) IN ADOPTING THE RULES PURSUANT TO SUBSECTION (2)(a) OF
23 THIS SECTION, THE COMMISSION:

24 (a) SHALL CONSIDER:

25 (I) SYMMETRICALLY ALLOCATING AN AMOUNT OF FUEL PRICE RISK
26 TO THE INVESTOR-OWNED ELECTRIC OR GAS UTILITY, SUBJECT TO
27 REASONABLE PARAMETERS, INCLUDING:

1 (A) A RANGE OF OUTCOMES WITHIN WHICH NO RISK SHARING
2 OCCURS; AND

3 (B) A CAPON ANY INCENTIVE OR COST SHARE THAT RESULTS FROM
4 THE RISK-MITIGATION MECHANISM; AND

5 (II) MECHANISMS TO IMPROVE ELECTRICITY PRODUCTION COST
6 EFFICIENCY WHILE MINIMIZING FUEL COSTS, SUCH AS SYMMETRICALLY
7 ALLOCATING A PORTION OF IMPROVEMENTS OR DEGRADATIONS IN
8 ELECTRICITY PRODUCTION PER DOLLAR OF FUEL OR PER DOLLAR OF
9 ACQUISITION COSTS INCURRED; AND

10 (b) MAY CONSIDER, TO THE EXTENT SUCH INFORMATION IS
11 RELEVANT;

12 (I) THE FINANCIAL HEALTH OF THE UTILITY AND CORRESPONDING
13 IMPACTS ON CUSTOMER AFFORDABILITY; AND

14 (II) THE UTILITY'S ABILITY TO MAKE INVESTMENTS TO ACHIEVE
15 THE STATE'S ENERGY POLICY OBJECTIVES IN AN AFFORDABLE MANNER FOR
16 CUSTOMERS.

17 (4) NOTHING IN THIS SECTION:

18 (a) SHALL BE CONSTRUED TO AUTOMATICALLY SHIFT RISK TO THE
19 INVESTOR-OWNED ELECTRIC OR GAS UTILITY; OR

20 (b) WARRANTS AN AUTOMATIC ADJUSTMENT TO THE AMOUNT OF
21 ALLOWABLE RETURN ON EQUITY OR ANY OTHER RATE-MAKING METRIC.

22 **40-3-121. Natural gas cost causation study - commission**
23 **proceeding - reporting - repeal.** (1) (a) WITHIN SIXTY DAYS AFTER THE
24 COMMISSION ISSUES A FINAL, NONAPPEALABLE DECISION REGARDING THE
25 FIRST CLEAN HEAT PLAN FILED PURSUANT TO SECTION 40-3.2-108 BY A
26 NATURAL GAS UTILITY THAT SERVES MORE THAN FIVE HUNDRED
27 THOUSAND CUSTOMERS, THE COMMISSION SHALL OPEN A PROCEEDING TO

1 INVESTIGATE WHETHER AND HOW RESIDENTIAL DEVELOPMENT AND OTHER
2 DEVELOPMENT IN CERTAIN GEOGRAPHIC AREAS DRIVE NATURAL GAS
3 INFRASTRUCTURE COSTS FOR ANY NATURAL GAS UTILITY THAT SERVES
4 MORE THAN FIVE HUNDRED THOUSAND CUSTOMERS IN THE STATE,
5 PARTICULARLY WITH REGARD TO THE IMPACT THAT THE DEVELOPMENT
6 HAS ON NONPARTICIPATING INCOME-QUALIFIED CUSTOMERS.

7 (b) THE PROCEEDING MUST IDENTIFY SPECIFIC, NEW LARGE
8 NATURAL GAS INFRASTRUCTURE INVESTMENTS AND, FOR EACH
9 INVESTMENT IDENTIFIED, DETERMINE THE EXTENT TO WHICH NEW
10 RESIDENTIAL DEVELOPMENT OR OTHER DEVELOPMENT BY A GEOGRAPHIC
11 AREA IS DISPROPORTIONATELY NECESSITATING THAT INVESTMENT.

12 (c) THE PROCEEDING MUST INCLUDE A CALCULATION OF THE
13 BENEFITS AND COSTS OF THE GROWTH IN NEW RESIDENTIAL DEVELOPMENT
14 AND OTHER DEVELOPMENT TO BOTH THE NATURAL GAS UTILITY
15 CUSTOMERS FOR WHOM THE INFRASTRUCTURE INVESTMENT IS BEING MADE
16 AND NONPARTICIPATING RETAIL AND WHOLESALE NATURAL GAS UTILITY
17 CUSTOMERS, PARTICULARLY THOSE NONPARTICIPATING CUSTOMERS WHO
18 ARE INCOME-QUALIFIED CUSTOMERS.

19 ==
20 (2) AFTER COMPLETION OF THE INVESTIGATION, THE COMMISSION
21 SHALL HOLD A HEARING, AT WHICH THE COMMISSION SHALL CONSIDER THE
22 INFORMATION GATHERED IN THE INVESTIGATION AND PUBLIC COMMENTS,
23 TO DETERMINE WHETHER ALTERNATIVE COST-RECOVERY MECHANISMS OR
24 ACTIONS TAKEN BY A NATURAL GAS UTILITY THAT SERVES MORE THAN
25 FIVE HUNDRED THOUSAND CUSTOMERS IN THE STATE ARE NECESSARY AND
26 APPROPRIATE OR COULD MITIGATE IMPACTS ON NONPARTICIPATING
27 INCOME-QUALIFIED CUSTOMERS.

1 (3) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.

2 **SECTION 5.** In Colorado Revised Statutes, **add** 40-3.2-104.3,
3 40-3.2-104.4, 40-3.2-104.5, and 40-3.2-104.6 as follows:

4 **40-3.2-104.3. Eliminating incentives for gas service to**
5 **properties - gas line extension allowances - exemptions - definitions.**

6 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

8 (a) "APPLICANT" MEANS A PERSON THAT REQUESTS NATURAL GAS
9 SERVICE AND THAT OWNS THE REAL PROPERTY REQUIRING THE SERVICE.
10 "APPLICANT" INCLUDES A DEVELOPER, BUILDER, LEGAL ENTITY, OR OTHER
11 PERSON THAT HAS LEGAL AUTHORITY OVER THE PROPERTY.

12 (b) "GAS UTILITY" MEANS A GAS UTILITY THAT THE COMMISSION
13 REGULATES WITH RESPECT TO RATES AND CHARGES.

14 (c) "LINE EXTENSION ALLOWANCE" MEANS A BUNDLE OF COSTS
15 THAT INCLUDES CONSTRUCTION ALLOWANCES FOR NEW SERVICE LINES,
16 METERS, AND OTHER INFRASTRUCTURE ASSOCIATED WITH THE ADDITION
17 OF A NEW CUSTOMER TO A GAS UTILITY'S DISTRIBUTION SYSTEM.

18 (2) (a) A GAS UTILITY SHALL NOT PROVIDE AN APPLICANT AN
19 INCENTIVE, INCLUDING A LINE EXTENSION ALLOWANCE, TO ESTABLISH GAS
20 SERVICE TO A PROPERTY.

21 (b) ON OR BEFORE DECEMBER 31, 2023, EACH GAS UTILITY SHALL
22 FILE WITH THE COMMISSION AN UPDATED TARIFF TO REFLECT THE
23 REMOVAL OF ANY INCENTIVES FOR AN APPLICANT TO ESTABLISH GAS
24 SERVICE TO A PROPERTY.

25 (c) NOTWITHSTANDING SUBSECTION (2)(b) OF THIS SECTION, A
26 UTILITY MAY EXEMPT FROM THE UPDATED TARIFF ANY APPLICANT THAT:

27 (I) HAS ALREADY SUBMITTED AN APPLICATION THAT HAS BEEN

1 APPROVED OR IS PENDING AS OF THE EFFECTIVE DATE OF THIS SECTION; OR
2 (II) CAN DEMONSTRATE OR ATTEST THAT THE APPLICANT HAS
3 SUBMITTED A PERMIT APPLICATION TO THE LOCAL GOVERNMENT WITH
4 PERMITTING AUTHORITY IN THE LOCATION OF THE PROPERTY AND THAT
5 THE APPLICATION IS EITHER APPROVED OR PENDING AS OF THE EFFECTIVE
6 DATE OF THIS SECTION.

7 **40-3.2-104.4. Colorado energy office gas investment asset**
8 **depreciation study - third-party evaluation - commission rules.**

9 (1) (a) ON OR BEFORE JULY 1, 2024, THE COLORADO ENERGY OFFICE
10 CREATED IN SECTION 24-38.5-101 (1) SHALL CONTRACT WITH AN
11 INDEPENDENT THIRD PARTY TO EVALUATE THE RISK OF STRANDED OR
12 UNDERUTILIZED NATURAL GAS INFRASTRUCTURE INVESTMENTS AND THE
13 ANNUAL PROJECTED RATE IMPACT ON RATEPAYERS.

14 (b) THE EVALUATION MUST TAKE INTO ACCOUNT:
15 (I) ANY PROJECTED DECLINE IN GAS SALES;
16 (II) THE DECLINE IN THE NUMBER OF GAS CUSTOMERS; AND
17 (III) MEASURES TO ACHIEVE THE GREENHOUSE GAS EMISSION
18 REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g).

19 (c) THE INDEPENDENT THIRD PARTY SHALL CONDUCT AN ANALYSIS
20 OF, AND INCLUDE POLICY RECOMMENDATIONS RELATED TO, THE
21 POTENTIAL IMPACTS OF STRANDED OR UNDERUTILIZED NATURAL GAS
22 INFRASTRUCTURE ON UTILITY EMPLOYEES WHO WORK FOR, OR CONTRACT
23 WORKERS WHO PERFORM WORK FOR, INVESTOR-OWNED GAS UTILITIES. IN
24 CONDUCTING THE STUDY, THE INDEPENDENT THIRD PARTY SHALL CONSULT
25 WITH APPROPRIATE LABOR ORGANIZATIONS THAT REPRESENT UTILITY
26 EMPLOYEES WHO WORK FOR, AND CONTRACT WORKERS WHO PERFORM
27 WORK FOR, INVESTOR-OWNED GAS UTILITIES AND OTHER RELEVANT

1 STAKEHOLDERS.

2 (2) AFTER THE INDEPENDENT THIRD-PARTY EVALUATION
3 DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS COMPLETED, THE
4 COLORADO ENERGY OFFICE SHALL SUBMIT A WRITTEN COPY OF THE
5 FINDINGS AND CONCLUSIONS OF THE EVALUATION TO THE COMMISSION.
6 THE COMMISSION SHALL REVIEW THE EVALUATION AND CONSIDER
7 WHETHER ANY CHANGES TO RULES OR DEPRECIATION SCHEDULES ARE
8 WARRANTED.

9 (3)(a) AN INVESTOR-OWNED GAS UTILITY SHALL PROVIDE AS PART
10 OF ANY GAS INFRASTRUCTURE PLAN, OR AS OTHERWISE DIRECTED BY THE
11 COMMISSION, A MAP SHOWING SYSTEM-WIDE LOCATIONS, AGES, AND
12 MATERIALS OR TYPES OF GAS DISTRIBUTION SYSTEM PIPES, CONSISTENT
13 WITH 49 CFR 191 AND SECTION 40-2-115 (1)(d).

14 (b) AS PART OF THE FILING, THE INVESTOR-OWNED GAS UTILITY
15 SHALL ALSO PROVIDE INFORMATION ABOUT PIPES THAT MAY NEED TO BE
16 UPGRADED OR REPLACED WITHIN TEN YEARS AFTER THE DATE THAT THE
17 UTILITY FILES THE PLAN, UNLESS OTHERWISE DIRECTED BY THE
18 COMMISSION.

19 (c) THE COMMISSION SHALL ENSURE THAT THE CONTENT OF THE
20 MAP PROVIDED TO THE COMMISSION AND SHARING PROCEDURES ARE IN
21 COMPLIANCE WITH THE PARAMETERS RELATED TO CRITICAL
22 INFRASTRUCTURE REPORTING STANDARDS OF THE CALIFORNIA INSTITUTE
23 FOR ENERGY AND ENVIRONMENT, OR ITS SUCCESSOR ORGANIZATION, AND
24 THE SAFETY AND SYSTEM INTEGRITY STANDARDS OF THE AMERICAN
25 PETROLEUM INSTITUTE, OR ITS SUCCESSOR ORGANIZATION.

26 **40-3.2-104.5. Customer disconnection from investor-owned**
27 **gas utility service - rules.** (1) AN INVESTOR-OWNED GAS UTILITY SHALL

1 NOT PENALIZE OR CHARGE A FEE TO A CUSTOMER THAT VOLUNTARILY
2 TERMINATES GAS SERVICE. ONCE A CUSTOMER HAS TERMINATED THE
3 INVESTOR-OWNED UTILITY'S GAS SERVICE, THE UTILITY SHALL NOT
4 CONTINUE TO CHARGE THE CUSTOMER ANY FEES. ANY COSTS ASSOCIATED
5 WITH TERMINATION SHALL BE CONSIDERED PART OF GENERAL
6 DISTRIBUTION SYSTEM INVESTMENTS AND ARE ELIGIBLE FOR COST
7 RECOVERY.

8 (2) THE COMMISSION MAY ADOPT RULES TO ESTABLISH
9 STANDARDS FOR A CUSTOMER'S VOLUNTARY DISCONNECTION FROM AN
10 INVESTOR-OWNED GAS UTILITY'S GAS DISTRIBUTION SYSTEM. IF THE
11 COMMISSION ADOPTS THE DISCONNECTION RULES, THE COMMISSION MUST
12 CONSIDER:

13 (a) THE HEALTH AND SAFETY RISKS RELATED TO THE CUSTOMER
14 NO LONGER USING THE GAS DISTRIBUTION SYSTEM;

15 (b) THE COST EFFECTIVENESS OF THE METHOD OF DISCONNECTION;

16 (c) THE USE OF, OR REQUIRING THE INSTALLATION OF, SHUT-OFF
17 VALVES OR PIPELINE CAPS AS AN OPTION IN LIEU OF POTENTIALLY MORE
18 COST-PROHIBITIVE EXCAVATION OR CONSTRUCTION ACTIVITIES TO
19 REMOVE EXISTING GAS INFRASTRUCTURE;

20 (d) THE IMPACT ON STAFFING, INCLUDING ANY REQUIREMENTS AND
21 PROCEDURES FOR UTILITY EMPLOYEES AND CONTRACT WORKERS;

22 (e) THE IMPACT ON CRITICAL REPAIRS, SCHEDULED MAINTENANCE,
23 LEAK MITIGATION, AND OTHER RELATED ACTIVITIES; AND

24 (f) ANY OTHER CONSIDERATION THAT THE COMMISSION DEEMS
25 APPROPRIATE.

26 (3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO MEAN
27 THAT A UTILITY CANNOT CHARGE AN INDIVIDUAL CUSTOMER FOR

1 EXCAVATION OR CONSTRUCTION ACTIVITIES TO REMOVE EXISTING GAS
2 INFRASTRUCTURE IF THE CUSTOMER HAS DECLINED THE MORE
3 COST-EFFECTIVE METHODS TO DISCONNECT SERVICE.

4 **40-3.2-104.6. Commission study on beneficial electrification -**
5 **repeal.** (1) ON OR BEFORE JULY 1, 2024, THE COMMISSION SHALL
6 COMPLETE A STUDY EXAMINING EXISTING INVESTOR-OWNED ELECTRIC
7 UTILITY TARIFFS AND INTERCONNECTION POLICIES AND PRACTICES TO
8 DETERMINE:

9 (a) IF THE TARIFFS, POLICIES, AND PRACTICES POSE A BARRIER TO
10 THE BENEFICIAL ELECTRIFICATION OF BUILDINGS AND THE OFFSETTING OF
11 THAT ENERGY USE WITH DISTRIBUTED GENERATION; AND

12 (b) WHETHER REQUIRING A CUSTOMER THAT SEEKS TO
13 INTERCONNECT A DISTRIBUTED GENERATION RESOURCE TO AN
14 INVESTOR-OWNED UTILITY'S ELECTRIC GRID FOR THE PURPOSE OF
15 BENEFICIAL ELECTRIFICATION OF BUILDINGS TO BEAR THE FULL
16 INCREMENTAL COST OF TRANSFORMER OR SERVICE UPGRADES NEEDED TO
17 INTERCONNECT THE RESOURCE IMPOSES AN UNDUE BURDEN ON THE
18 CUSTOMER.

19 (2) IN CONDUCTING THE STUDY PURSUANT TO SUBSECTION (1) OF
20 THIS SECTION, THE COMMISSION SHALL CONSIDER WHETHER TO DIRECT:

21 (a) AN INVESTOR-OWNED ELECTRIC UTILITY TO ALLOCATE ALL OR
22 SOME OF THE COST OF TRANSFORMER OR SERVICE UPGRADES AS PART OF
23 THE UTILITY'S INVESTMENT IN ITS DISTRIBUTION SYSTEM; AND

24 (b) THAT AN INVESTOR-OWNED ELECTRIC UTILITY MAKE CHANGES
25 TO ITS DISTRIBUTION SYSTEM PLANNING PROCESS IN ORDER TO BETTER
26 PLAN FOR AND ACCOMMODATE FUTURE BENEFICIAL ELECTRIFICATION AND
27 DISTRIBUTED GENERATION INVESTMENTS.

1 (3) UPON COMPLETION OF THE STUDY, THE COMMISSION SHALL
2 POST WRITTEN FINDINGS AND CONCLUSIONS FROM THE STUDY ON THE
3 COMMISSION'S WEBSITE.

4 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.

5 **SECTION 6.** In Colorado Revised Statutes, 40-6-109, **amend** (1)
6 as follows:

7 **40-6-109. Hearings - orders - record - review - representation**
8 **of entities in nonadjudicatory proceedings.** (1) (a) (I) At the time fixed
9 for any hearing before the commission, any commissioner, or an
10 administrative law judge or at the time to which the ~~same~~ HEARING may
11 have been continued, ~~the applicant, petitioner, complainant, the person,~~
12 ~~firm, or corporation complained of, and such persons, firms, or~~
13 ~~corporations as the commission may allow to intervene and such persons,~~
14 ~~firms, or corporations as will be interested in or affected by any order that~~
15 ~~may be made by the commission in such proceeding and who shall have~~
16 ~~become parties to the proceeding shall be~~ THE FOLLOWING PERSONS ARE
17 entitled to be heard, examine and cross-examine witnesses, and introduce
18 evidence:

19 (A) THE APPLICANT;

20 (B) THE PETITIONER;

21 (C) THE COMPLAINANT;

22 (D) THE PERSON, FIRM, OR CORPORATION COMPLAINED OF;

23 (E) SUCH PERSONS, FIRMS, OR CORPORATIONS AS THE COMMISSION
24 MAY ALLOW TO INTERVENE; AND

25 (F) SUCH PERSONS, FIRMS, OR CORPORATIONS AS WILL BE
26 INTERESTED IN OR AFFECTED BY ANY ORDER THAT MAY BE MADE BY THE
27 COMMISSION IN SUCH PROCEEDING AND WHO SHALL HAVE BECOME

1 PARTIES TO THE PROCEEDING.

2 (II) ALL PARTIES IN INTEREST ARE ENTITLED TO BE HEARD IN
3 PERSON OR BY ATTORNEY.

4 (b) IN A PROCEEDING BEFORE THE COMMISSION THAT RELATES TO
5 AN INVESTOR-OWNED UTILITY'S APPLICATION FOR COST RECOVERY, THE
6 COMMISSION SHALL PERMIT A WHOLESALE CUSTOMER OF THE UTILITY TO
7 INTERVENE IF THE CUSTOMER DEMONSTRATES A PECUNIARY OR TANGIBLE
8 INTEREST IN THE PROCEEDING.

9 (c) A REPORTER APPOINTED BY THE COMMISSION, A COMMISSIONER
10 IF DEEMED APPROPRIATE BY THE COMMISSION, OR, AS APPLICABLE, AN
11 ADMINISTRATIVE LAW JUDGE SHALL TAKE DOWN AND RECORD
12 ELECTRONICALLY a full and complete record of all proceedings had before
13 the commission, any commissioner, or an administrative law judge in any
14 formal hearing and all testimony. ~~shall be taken down by any reporter
15 appointed by the commission or, as deemed appropriate by the
16 commission, a commissioner, or an administrative law judge, as
17 applicable, recorded electronically. All parties in interest shall be entitled
18 to be heard in person or by attorney.~~

19 SECTION 7. Appropriation. (1) For the 2023-24 state fiscal
20 year, \$1,265,551 is appropriated to the department of regulatory agencies.
21 This appropriation is from the public utilities commission fixed utility
22 fund created in section 40-2-114 (1)(b)(II), C.R.S. To implement this act,
23 the department may use this appropriation as follows:

24 (a) \$233,630 for use by the public utilities commission for
25 personal services, which amount is based on an assumption that the
26 commission will require an additional 2.5 FTE;

27 (b) \$23,385 for use by the public utilities commission for

1 operating expenses;

2 (c) \$271,406 for use by the office of the utility consumer advocate
3 for personal services, which amount is based on an assumption that the
4 office will require an additional 2.5 FTE;

5 (d) \$23,385 for use by the office of the utility consumer advocate
6 for operating expenses; and

7 (e) \$713,745 for the purchase of legal services.

8 (2) For the 2023-24 state fiscal year, \$713,745 is appropriated to
9 the department of law. This appropriation is from reappropriated funds
10 received from the department of regulatory agencies under subsection
11 (1)(e) of this section and is based on an assumption that the department
12 of law will require an additional 3.8 FTE. To implement this act, the
13 department of law may use this appropriation to provide legal services for
14 the department of regulatory agencies.

15 (3) For the 2023-24 state fiscal year, \$142,749 is appropriated to
16 the department of law. This appropriation is from the legal services cash
17 fund created in section 24-31-108 (4), C.R.S., from revenue received
18 from the Colorado energy office in the office of the governor that
19 originates as custodial federal funds that the Colorado energy office has
20 authority to expend. The appropriation to the department of law is based
21 on an assumption that the department of law will require an additional 0.8
22 FTE. To implement this act, the department of law may use this
23 appropriation to provide legal services for the Colorado energy office in
24 the office of the governor.

25 **SECTION 8. Act subject to petition - effective date -**
26 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
27 the expiration of the ninety-day period after final adjournment of the

1 general assembly; except that, if a referendum petition is filed pursuant
2 to section 1 (3) of article V of the state constitution against this act or an
3 item, section, or part of this act within such period, then the act, item,
4 section, or part will not take effect unless approved by the people at the
5 general election to be held in November 2024 and, in such case, will take
6 effect on the date of the official declaration of the vote thereon by the
7 governor.

8 (2) This act applies to conduct occurring on or after the applicable
9 effective date of this act.