

CHAPTER 257

PUBLIC UTILITIES

SENATE BILL 03-225

BY SENATOR(S) McElhany, Jones, and May R. ;
 also REPRESENTATIVE(S) Berry, Borodkin, McFadyen, Stafford, and Williams S.

AN ACT

**CONCERNING RECOMMENDATIONS FROM THE DEPARTMENT OF REGULATORY AGENCIES REGARDING
 THE PUBLIC UTILITIES COMMISSION.**

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

SECTION 1. 40-2-101 (2), Colorado Revised Statutes, is amended to read:

40-2-101. Creation - appointment - term - subject to termination - repeal of article. (2) No more than two members of the public utilities commission shall be affiliated with the same political party, and any appointment to fill a vacancy shall be for the unexpired term. Each commissioner shall be a qualified elector of this state. The governor shall designate one member of the commission as ~~chairman~~ CHAIR of the commission. The commissioners shall devote their entire time to the duties of their office to the exclusion of any other employment and shall receive such compensation as is designated by law. A majority of the commission shall constitute a quorum for the transaction of its business.

SECTION 2. 40-13-101 (3), Colorado Revised Statutes, is amended to read:

40-13-101. Definitions. As used in this article, unless the context otherwise requires:

(3) "Towing carrier" means a person whose primary function or one of whose primary functions consists of commercially offering services on the public ways of the state whereby motor vehicles are towed or otherwise moved by use of a truck or other vehicle designed for or adapted to that purpose AND PROVIDING STORAGE FOR SUCH TOWED MOTOR VEHICLES.

SECTION 3. 40-13-107 (2), Colorado Revised Statutes, is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

40-13-107. Commission to make rules and prescribe rates. (2) The commission may prescribe minimum and maximum rates and charges to be collected by NONCONSENSUAL towing carriers for the towing of motor vehicles for compensation and for the storage of such vehicles. ~~Excluded from the application of this subsection (2) shall be any Colorado state licensed motor club or any towing carrier who has contracted with any motor club licensed by the state of Colorado for the performance of towing services for the members of such motor club. Such exclusion shall be limited to towing services rendered under such contract or by such motor club.~~ IN SETTING THE RATES AND CHARGES PURSUANT TO THIS SUBSECTION (2), THE COMMISSION MAY REQUIRE NONCONSENSUAL TOWING CARRIERS TO SUBMIT FINANCIAL STATEMENTS OR OTHER FINANCIAL INFORMATION TO DETERMINE THE COSTS ASSOCIATED WITH THE PERFORMANCE OF NONCONSENSUAL TOWING.

SECTION 4. 40-13-104 (1), Colorado Revised Statutes, is amended to read:

40-13-104. Requirements for issuance of permit. (1) Application for a permit under this article shall be made to the commission in such form and with such information, including rates and charges, as the commission may require, accompanied by a fee of ~~ten~~ ONE HUNDRED FIFTY dollars and by satisfactory evidence of insurance or bond as required by section 40-13-105.

SECTION 5. 40-2-115 (1), (1.5), and (2) (a), Colorado Revised Statutes, are amended to read:

40-2-115. Cooperation with other states and with the United States. (1) The commission is authorized to confer with or hold joint hearings with the authorities of any state or any agency of the United States in connection with any matter arising in proceedings under this title, under the laws of any state, or under the laws of the United States; to avail itself of the cooperation, services, records, and facilities of authorities of this state, any other state, or any agency of the United States as may be practicable in the enforcement or administration of the provisions of this title; and to enter into cooperative agreements with the various states and with any agency of the United States to enforce the economic and safety laws and ~~regulations~~ RULES of this state and of the United States. The commission is authorized to provide for the exchange of information concerning the enforcement of the economic and safety laws and ~~regulations~~ RULES of this state, ~~of~~ any other state, and ~~of~~ the United States relating to public utilities or to safety of transportation of gas by any person including a municipality; and, in particular, the commission may enforce the ~~regulations~~ RULES of the United States department of transportation concerning pipeline safety drug testing promulgated under the federal "Natural Gas Pipeline Safety Act", 49 U.S.C. ~~secs. 60101 to 60125~~ SEC. 60101 ET SEQ., and may adopt such ~~regulations~~ RULES as are necessary and proper to comply with federal requirements under said act.

(1.5) The commission is authorized to adopt such rules as may be necessary to enforce and administer, in cooperation with the United States department of transportation, the provisions of the "Natural Gas Pipeline Safety Act", 49 U.S.C. ~~secs. 60101 to 60125~~ SEC. 60101 ET SEQ., for the purpose of gas pipeline safety. Such rules shall apply to all public utilities and all municipal or quasi-municipal corporations transporting natural gas or providing natural gas service, all operators of master meter systems, as defined in 49 CFR 191.3, and all operators of pipelines

~~providing natural gas directly to the ultimate consumer for the purpose of manufacturing goods or generating power~~ TRANSPORTING GAS IN INTRASTATE COMMERCE.

(2) As used in this section:

(a) "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline or its storage ~~except that it does not include the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area~~ AS DEFINED IN 49 CFR 192.3.

SECTION 6. 40-7-117 (1), Colorado Revised Statutes, is amended to read:

40-7-117. Gas pipeline safety rules - civil penalty for violations - compromise - other remedies. (1) Any person violating any rule adopted or order issued by the commission pursuant to the authority granted in section 40-2-115 (1.5) shall be subject to a civil penalty not to exceed ~~ten~~ ONE HUNDRED thousand dollars per violation; except that, in the case of a group or series of related violations, the aggregate amount of such penalties shall not exceed ~~five hundred thousand~~ ONE MILLION dollars. Each day of a continuing violation shall constitute a separate violation.

SECTION 7. Part 5 of article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-15-503.5. Financial assurance. (1) THE COMMISSION MAY REQUIRE REGULATED TELECOMMUNICATIONS SERVICE PROVIDERS TO POST A BOND OR PROVIDE OTHER SECURITY AS A CONDITION OF OBTAINING A CERTIFICATE, REGISTRATION, OR OPERATING AUTHORITY, WHICHEVER INSTRUMENT OR INSTRUMENTS APPLY. IN SETTING THE AMOUNT OF THE BOND OR SECURITY, THE COMMISSION MAY CONSIDER THE FOLLOWING CRITERIA:

(a) THE FINANCIAL VIABILITY OF THE SERVICE PROVIDER, AS EVIDENCED BY ITS AUDITED FINANCIAL STATEMENTS AND ITS GENERAL CREDIT HISTORY;

(b) THE TOTAL AMOUNT OF DEPOSITS MADE BY CUSTOMERS TO THE PROVIDER TO OBTAIN SERVICE AND THE AGGREGATE AMOUNT OF PREPAYMENTS MADE BY CUSTOMERS FOR MONTHLY REGULATED SERVICE; AND

(c) THE HISTORY OF THE PROVIDER'S STATUTORY PAYMENT OBLIGATIONS, INCLUDING THOSE TO THE COLORADO HIGH-COST SUPPORT MECHANISM, THE COLORADO TELEPHONE LOW INCOME ASSISTANCE PROGRAM, THE COLORADO TELEPHONE RELAY SYSTEM, AND THE COLORADO FIXED UTILITY FUND.

(2) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION AND MAY IMPOSE ADDITIONAL CRITERIA CONSISTENT WITH THIS SECTION.

SECTION 8. Repeal. 43-4-201 (2) and (3) (a) (II) (H), Colorado Revised Statutes, are repealed as follows:

43-4-201. Funds created - repeal. (2) ~~The highway crossing protection fund is hereby created in the state treasurer's office, out of the highway users tax fund as provided in section 43-4-205 (2), in order to promote the public safety and to provide for the payment of the costs of installing, reconstructing, and improving automatic and other safety appliance signals or devices at crossings at grade of public highways or roads over the tracks of any railroad or street railway corporation in the state. None of the moneys in the highway crossing protection fund shall be used to pay any part of the cost of the installation, reconstruction, or improvement of any such signals or devices at any crossing when any part of such cost will be paid from funds available under any federal or federal-aid highway act.~~

(3) (a) (II) The general assembly shall not make any annual appropriation or statutory distribution from the highway users tax fund except as follows:

(H) ~~To the highway crossing protection fund;~~

SECTION 9. Repeal. 43-4-205 (2), Colorado Revised Statutes, is repealed as follows:

43-4-205. Allocation of fund. (2) ~~Out of the highway users tax fund, subject to annual appropriation by the general assembly, there shall first be paid and credited to the highway crossing protection fund the sum of twenty thousand dollars each month, but, whenever, after deducting all amounts which have theretofore been approved or ordered by the public utilities commission to be paid from said fund, subject to annual appropriation by the general assembly, for the installation of automatic and other safety appliance signals and devices at railroad grade crossings, there is a balance in said fund, not so approved or ordered to be paid, of at least two hundred forty thousand dollars, no further moneys shall be paid or credited to said fund from the highway users tax fund until the balance in said fund, after making the same deduction, is less than two hundred forty thousand dollars. Notwithstanding the provisions of section 24-36-114 (1), C.R.S., any interest earned on the deposit and investment of moneys in the highway crossing protection fund shall remain in the fund and may not be credited or transferred to the general fund of the state.~~

SECTION 10. Article 29 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-29-116. Highway crossing protection fund created - annual appropriation.

(1) THE HIGHWAY CROSSING PROTECTION FUND IS HEREBY CREATED IN THE STATE TREASURER'S OFFICE, IN ORDER TO PROMOTE THE PUBLIC SAFETY AND TO PROVIDE FOR THE PAYMENT OF THE COSTS OF INSTALLING, RECONSTRUCTING, AND IMPROVING AUTOMATIC AND OTHER SAFETY APPLIANCE SIGNALS OR DEVICES AT CROSSINGS AT GRADE OF PUBLIC HIGHWAYS OR ROADS OVER THE TRACKS OF ANY RAILROAD OR STREET RAILWAY CORPORATION IN THIS STATE. NONE OF THE MONEYS IN THE HIGHWAY CROSSING PROTECTION FUND SHALL BE USED TO PAY ANY PART OF THE COST OF THE INSTALLATION, RECONSTRUCTION, OR IMPROVEMENT OF ANY SUCH SIGNALS OR DEVICES AT ANY CROSSING WHEN ANY PART OF SUCH COST WILL BE PAID FROM MONEYS AVAILABLE UNDER ANY FEDERAL OR FEDERAL-AID HIGHWAY ACT.

(2) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE SUM OF TWO HUNDRED FORTY THOUSAND DOLLARS SHALL BE PAID FROM THE GENERAL FUND

AND CREDITED TO THE HIGHWAY CROSSING PROTECTION FUND. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-36-114 (1), C.R.S., ANY INTEREST EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE HIGHWAY CROSSING PROTECTION FUND SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. SUCH EARNED INTEREST MONEYS ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE PUBLIC UTILITIES COMMISSION FOR USE FOR THE PURPOSES OF THE HIGHWAY CROSSING PROTECTION FUND.

SECTION 11. 40-4-106 (2) (b), Colorado Revised Statutes, is amended to read:

40-4-106. Rules for public safety - crossings - allocation of expenses.

(2) (b) Whenever the commission orders in any proceeding before it, regardless of by whom or how such proceeding was commenced, that automatic or other safety appliance signals or devices be installed, reconstructed, or improved and operated at any crossing at grade of any public highway or road over the tracks of any railroad corporation, the commission shall also determine and order, after notice and hearing, how the cost of installing, reconstructing, or improving such signals or devices shall be divided between and paid by the interested railroad corporation whose tracks are located at such crossing on the one hand and the highway operations and maintenance division and the interested city, city and county, town, county, or other political subdivision of the state on the other hand. In determining how much of the cost shall be paid by the railroad corporation, consideration shall be given to the benefit, if any, ~~which~~ THAT will accrue from such signals or devices to the railroad corporation, but in every case the part to be paid by the railroad corporation shall be not less than twenty percent of the total cost of such signals or devices at any crossing, and such orders shall provide that every such signal or device so installed shall be maintained by such railroad corporation for the life of the crossing to be so protected. In order to compensate for the use of such crossings by the public generally, the commission shall also order that such part of the cost of installing, reconstructing, or improving such signals or devices as will not be paid by the railroad corporation be divided between the ~~state~~ highway crossing protection fund and the city, town, city and county, county, or other political subdivision in which the crossing is located, and the commission shall fix in each case the amount to be paid from the ~~state~~ highway crossing protection fund and the amount to be paid by the city, town, city and county, county, or other political subdivision. Any order of the commission under this section for the payment of any part of any such costs from the ~~state~~ highway crossing protection fund shall be authority for the state treasurer to pay out of said fund to the person, firm, or corporation entitled thereto under the commission's order the amount so determined to be paid from said fund. The requirement of notice and hearing in this section is deemed to have been complied with by the commission's giving notice of and holding a hearing upon the question of whether any such signals or devices are required at any crossing; but in such cases the notice shall state that the question of how the costs will be borne and paid will be considered at and determined as a result of the hearing for which the notice is given. This paragraph (b) shall not apply to any grade crossing when all or any part of the cost of the installation, reconstruction, or improvement of such signals or devices at the crossing will be paid from funds available under any federal or federal-aid highway act.

SECTION 12. The introductory portion to 43-4-206 (1), Colorado Revised Statutes, is amended to read:

43-4-206. State allocation. (1) Except as otherwise provided in subsection (2) of this section, ~~after the payments to the highway crossing protection fund required by law have been made and~~ after paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, sixty-five percent of the balance of the highway users tax fund shall be paid to the state highway fund and shall be expended for the following purposes:

SECTION 13. 43-4-207 (1), Colorado Revised Statutes, is amended to read:

43-4-207. County allocation. (1) ~~After the payments required by law have been made to the highway crossing protection fund and~~ after paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, twenty-six percent of the balance of the highway users tax fund shall be paid to the county treasurers of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in this section. The moneys thus received shall be allocated to the counties as provided by law and shall be expended by said counties only on the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the county highway systems and any other public highways, including any state highways, together with acquisition of rights-of-way and access rights for the same and for no other purpose. The amount to be expended for administrative purposes shall not exceed five percent of each county's share of the funds available.

SECTION 14. 43-4-208 (1), Colorado Revised Statutes, is amended to read:

43-4-208. Municipal allocation. (1) ~~After the payments required by law have been made to the highway crossing protection fund and~~ after paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, and making allocation as provided by sections 43-4-206 and 43-4-207, the remaining nine percent of the highway users tax fund shall be paid to the cities and incorporated towns within the limits of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in this section. Each city treasurer shall account for the moneys thus received as provided in this part 2. Such moneys so allocated shall be expended by said cities and incorporated towns for the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the system of streets of such city or incorporated town or of any public highways located within such city or incorporated town, including any state highways, together with the acquisition of rights-of-way and access rights for the same, and for no other purpose. The amount to be expended for administrative purposes shall not exceed five percent of each city's share of the funds available.

SECTION 15. The introductory portion to 40-7-113 (1) and 40-7-113 (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), and (1) (g), Colorado Revised Statutes, are amended to read:

40-7-113. Civil penalties - fines. (1) In addition to any other penalty otherwise

authorized by law and except as otherwise provided in subsections (3) and (4) of this section, any person who violates any provision of article 10, 11, 13, or 16 of this title or any rule ~~or regulation~~ promulgated by the commission pursuant to such articles, which provision or rule ~~or regulation~~ is applicable to such person, may be subject to fines as specified in the following paragraphs:

(a) Any person who fails to carry the insurance required by law may be assessed a civil penalty of not more than ~~four hundred~~ ELEVEN THOUSAND dollars.

(b) Any person who operates a motor vehicle for hire as a common carrier without first having obtained a certificate of public convenience and necessity from the commission as required by section 40-10-104 may be assessed a civil penalty of not more than ~~four~~ ONE THOUSAND ONE hundred dollars.

(c) Any person who operates a motor vehicle for hire as a contract carrier without first having obtained a permit from the commission as required by section 40-11-103 may be assessed a civil penalty of not more than ~~four~~ ONE THOUSAND ONE hundred dollars.

(d) Any person who operates a motor vehicle for hire as a towing carrier without first having obtained a permit from the commission as required by section 40-13-103 may be assessed a civil penalty of not more than ~~four~~ ONE THOUSAND ONE hundred dollars.

(f) Any person who operates a charter or scenic bus as defined in section 40-16-101 (1.3), A CHILDREN'S ACTIVITY BUS AS DEFINED IN SECTION 40-16-101 (1.5), a property carrier by motor vehicle as defined in section 40-16-101 (6.5), a luxury limousine as defined in section 40-16-101 (3), or an off-road scenic charter as defined in section 40-16-101 (5) without having first registered with the commission as required by section 40-16-103 may be assessed a civil penalty of not more than ~~four~~ ONE THOUSAND ONE hundred dollars.

(g) Any person who operates a motor vehicle as defined in section 40-10-101 (3) or 40-11-101 (4) who intentionally violates any provision of articles 10, 11, 13, and 16 of this title not enumerated in paragraphs (a) to (f) of this subsection (1), any rule ~~or regulation~~ promulgated by the commission pursuant to this title, or any safety rule adopted by the department of public safety relating to towing carriers may be assessed a civil penalty of not more than ~~four~~ ONE THOUSAND ONE hundred dollars. ANY PERSON WHO VIOLATES ANY SAFETY RULE PROMULGATED BY THE COMMISSION SHALL BE SUBJECT TO THE CIVIL PENALTIES AUTHORIZED PURSUANT TO 49 CFR 386, SUBPART G, AS SUCH SUBPART EXISTED ON OCTOBER 1, 2001.

SECTION 16. 24-1-122 (2) (a), Colorado Revised Statutes, is amended to read:

24-1-122. Department of regulatory agencies - creation. (2) (a) The public utilities commission, created by article 2 of title 40, C.R.S. Its powers, duties, and functions are transferred by a **type 1** transfer to the department of regulatory agencies as a division thereof. The ~~executive secretary~~ DIRECTOR of the commission shall serve as the division director.

SECTION 17. 40-5-106, Colorado Revised Statutes, is amended to read:

40-5-106. Designation for service of process. (1) It is the duty of every public utility operating in, through, or into the state of Colorado to file with the commission a designation in writing, under oath, of the name and post office address of a person upon whom service of notices or orders in proceedings pending before the commission may be made. Such designation may from time to time be changed by like writing similarly filed. In default of such designation, service of any notice or order may be made by posting such order or notice in the office of the ~~secretary~~ DIRECTOR of the commission and by mailing a copy of such notice or order to such public utility by certified mail, return receipt requested, at its last-known address.

(2) Every public utility operating in, through, or into the state of Colorado shall also file with the ~~secretary~~ DIRECTOR of the commission a designation in writing, under oath, of the name and post office address of a person in the state of Colorado upon whom process issued by or under the authority of any court or board having jurisdiction of the subject matter may be served in any judicial or other proceeding brought against such public utility in this state. Such designation may from time to time be changed by like writing similarly filed. In default of such designation, service may be made upon any agent, representative, or employee of such public utility found within the state. Nothing in this article shall apply to railroad corporations.

SECTION 18. 40-6-101 (3), Colorado Revised Statutes, is amended to read:

40-6-101. Proceedings - delegation of duties - rules. (3) An individual commissioner or an administrative law judge has authority to hear and determine, order, certify, report, or otherwise act as to any work, business, or functions assigned or referred to ~~him~~ SUCH OFFICER under the provisions of this title and, with respect thereto, has all the jurisdiction and powers conferred by law upon the commission and is subject to the same duties and obligations. The ~~secretary and~~ seal of the commission shall be the ~~secretary and~~ seal of an individual commissioner or administrative law judge. Except as otherwise provided in this title, any order, decision, or requirement of an individual commissioner or an administrative law judge with respect to any matter assigned or referred to ~~him~~ SUCH OFFICER under subsection (2) of this section has the same force and effect and may be made and evidenced in the same manner as if made or taken by the commission.

SECTION 19. 40-6-102 (1), Colorado Revised Statutes, is amended to read:

40-6-102. Service - fees - depositions - examination of witnesses. (1) The commission, each commissioner, an administrative law judge with respect to matters referred to ~~him~~ SUCH JUDGE, and the ~~secretary~~ DIRECTOR of the commission have power to issue notices, orders to satisfy or answer, summonses, subpoenas, and commissions to take the deposition of any witness whose testimony is required in any proceeding pending before the commission in like manner and to the same extent as courts of record. The process issued by the commission, any commissioner, an administrative law judge, or the ~~secretary~~ DIRECTOR of the commission shall extend to all parts of the state and beyond the boundaries thereof as may be provided by law or the Colorado rules of civil procedure and may be served by any person authorized to serve process of courts of record, by any person designated for that purpose by the commission or a commissioner, or by first-class mail, postage prepaid, as provided in section 40-6-108. The person executing any such process shall receive such compensation as may be allowed by the commission, not to exceed the fees now

prescribed by law for similar services, and such fees shall be paid in the same manner as provided for payment of the fees of witnesses.

SECTION 20. 40-6-103, Colorado Revised Statutes, is amended to read:

40-6-103. Administration of oaths - compulsion of testimony - fees. (1) The commission, each commissioner, the ~~secretary~~ DIRECTOR, and any administrative law judge as to matters referred to ~~him~~ SUCH JUDGE have power to administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of records, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state. No subpoena shall be issued except upon good cause shown. Good cause shown shall consist of an affidavit stating with specificity the testimony, records, or documents sought and the relevance of such testimony, records, or documents to the proceedings of the commission. Each witness who appears by order of the commission, a commissioner, the ~~secretary~~ DIRECTOR, or any administrative law judge shall receive for ~~his~~ THE WITNESS' attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness who has not been required to attend at the request of any party is subpoenaed, ~~his~~ THE WITNESS' fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the commission, at the time of service, may demand the fees to which ~~he~~ THE WITNESS is entitled for travel to and from the place at which ~~he~~ THE WITNESS is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, ~~he~~ THE WITNESS shall not be required to attend, as directed in the subpoena. All fees and mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. No witness furnished with free transportation shall receive mileage for the distance ~~he~~ THE WITNESS may have traveled on such free transportation.

(2) The district court in and for the county or city and county in which any inquiry, investigation, hearing, or proceeding may be held by the commission, or any individual commissioner or administrative law judge, has the power to compel the attendance of witnesses, the giving of testimony, and the production of records or documents as required by any subpoenas issued by the commission, or any individual commissioner, the ~~secretary~~ DIRECTOR, or any administrative law judge. The commission, individual commissioner, or an administrative law judge before whom the testimony is to be given or produced, in case of the failure or refusal of any witness to attend or testify or produce any records or documents required by such subpoena, may report to the district court in and for the county or city and county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness or the production of said records or documents, that the witness has been subpoenaed in the manner prescribed in this title, and that the witness has failed or refused to attend or produce the records or documents required by the subpoena or has failed or refused to answer questions propounded to ~~him~~ THE WITNESS in the course of such proceeding; and ~~said~~ THE commission, individual commissioner, or an administrative law judge may ask for an order of the court compelling the witness to attend and testify or produce or cause to be produced documentary evidence. No person so testifying shall be exempt from

prosecution or punishment for any perjury in the first degree committed by ~~him~~ SUCH PERSON in this testimony. Nothing in this section shall be construed as in any manner giving to any public utility immunity of any kind.

SECTION 21. 40-6-104, Colorado Revised Statutes, is amended to read:

40-6-104. Certified copies - evidence - orders. (1) Copies of all official documents, commission decisions, and orders on file with the commission, or documents filed or deposited according to law in the office of the commission, certified by a commissioner or by the ~~secretary~~ DIRECTOR under the official seal of the commission to be true copies of the originals, shall be evidence in like manner as the originals and shall be treated and recognized as such by all courts of the state of Colorado.

(2) Any order, decision, authorization, certificate, or entry, or a copy thereof, certified by a commissioner or by the ~~secretary~~ DIRECTOR under the official seal of the commission to be a true copy of the original order, decision, authorization, certificate, or entry, may be filed for record in the office of the county clerk and recorder of any county or city and county in which is located the principal place of business of any public utility affected thereby or in which is situated any property of any such public utility, and such record shall impart notice of its provisions to all persons. A certificate under the seal of the commission that any such order, decision, authorization, or certificate has not been modified, stayed, suspended, or revoked may also be recorded in the same offices in the same manner and with like effect.

SECTION 22. 40-6-108 (3), Colorado Revised Statutes, is amended to read:

40-6-108. Complaints - service - notice of hearing. (3) Service in all applications, petitions, complaints, hearings, investigations, and other proceedings pending before the commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the Colorado rules of civil procedure, or may be made personally or by first-class mail. In all cases wherein service is obtained by mail by the commission, the certificate of the ~~secretary~~ DIRECTOR of the commission of such mailing shall be prima facie evidence that service has been obtained, and the time fixed in any order or notice shall commence to run from the date of mailing as shown in such certificate. The mailing of any notice or other paper by any other party to a proceeding shall be evidenced by the certificate of the person mailing such notice or other paper, and the time fixed in any such notice or other paper shall commence to run from the date of mailing as shown in such certificate.

SECTION 23. 40-9.5-104 (1) (d), Colorado Revised Statutes, is amended to read:

40-9.5-104. Procedure for exemption - election. (1) (d) The results of the election held pursuant to this subsection (1) shall be certified by the secretary of the board of directors of the cooperative electric association no later than sixty days after the ballots are mailed to the members and consumers, and said secretary shall file the results with the ~~secretary~~ DIRECTOR of the public utilities commission.

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

Approved: May 14, 2003