

CHAPTER 61

PUBLIC UTILITIES

SENATE BILL 07-100

BY SENATOR(S) Fitz-Gerald, Kester, Bacon, Boyd, Gordon, Groff, Hagedorn, Isgar, Keller, Morse, Penry, Romer, Sandoval, Schwartz, Shaffer, Takis, Tapia, Tochtrop, Tupa, Veiga, Williams, Windels, Brophy, Harvey, Johnson, Taylor, and Wiens; also REPRESENTATIVE(S) McFadyen, Buescher, Butcher, Casso, Frangas, Gallegos, Gardner B., Jahn, Kefalas, Kerr A., Labuda, Levy, Madden, Merrifield, Pommer, Primavera, Rice, Roberts, Rose, Solano, and Witwer.

AN ACT

CONCERNING MEASURES TO ENSURE THE ADEQUACY OF COLORADO'S ELECTRIC TRANSMISSION INFRASTRUCTURE, AND, IN CONNECTION THEREWITH, REQUIRING UTILITIES TO DESIGNATE ENERGY RESOURCE ZONES AND AUTHORIZING EXPEDITED COST RECOVERY FOR THE CONSTRUCTION OF TRANSMISSION FACILITIES.

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

SECTION 1. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) A robust electric transmission system is critical to ensuring the reliability of electric power for Colorado's citizens;

(b) Colorado's vibrant economy and high quality of life depend on the continued availability of clean, affordable, reliable electricity; and

(c) Therefore, Colorado utilities should continually evaluate the adequacy of electric transmission facilities throughout the state and should be encouraged to promptly and efficiently improve such infrastructure as required to meet the state's existing and future energy needs.

SECTION 2. Article 2 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-2-126. Transmission facilities - biennial review - energy resource zones - definitions - plans - approval - cost recovery. (1) AS USED IN THIS SECTION, "ENERGY RESOURCE ZONE" MEANS A GEOGRAPHIC AREA IN WHICH TRANSMISSION

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

CONSTRAINTS HINDER THE DELIVERY OF ELECTRICITY TO COLORADO CONSUMERS, THE DEVELOPMENT OF NEW ELECTRIC GENERATION FACILITIES TO SERVE COLORADO CONSUMERS, OR BOTH.

(2) ON OR BEFORE OCTOBER 31 OF EACH ODD-NUMBERED YEAR, COMMENCING IN 2007, EACH COLORADO ELECTRIC UTILITY SUBJECT TO RATE REGULATION BY THE COMMISSION SHALL:

(a) DESIGNATE ENERGY RESOURCE ZONES;

(b) DEVELOP PLANS FOR THE CONSTRUCTION OR EXPANSION OF TRANSMISSION FACILITIES NECESSARY TO DELIVER ELECTRIC POWER CONSISTENT WITH THE TIMING OF THE DEVELOPMENT OF BENEFICIAL ENERGY RESOURCES LOCATED IN OR NEAR SUCH ZONES;

(c) CONSIDER HOW TRANSMISSION CAN BE PROVIDED TO ENCOURAGE LOCAL OWNERSHIP OF RENEWABLE ENERGY FACILITIES, WHETHER THROUGH RENEWABLE ENERGY COOPERATIVES AS PROVIDED IN SECTION 7-56-210, C.R.S., OR OTHERWISE; AND

(d) SUBMIT PROPOSED PLANS, DESIGNATIONS, AND APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO THE COMMISSION FOR SIMULTANEOUS REVIEW PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) THE COMMISSION SHALL APPROVE A UTILITY'S APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OR EXPANSION OF TRANSMISSION FACILITIES PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION IF THE COMMISSION FINDS THAT:

(a) THE CONSTRUCTION OR EXPANSION IS REQUIRED TO ENSURE THE RELIABLE DELIVERY OF ELECTRICITY TO COLORADO CONSUMERS OR TO ENABLE THE UTILITY TO MEET THE RENEWABLE ENERGY STANDARDS SET FORTH IN SECTION 40-2-124; AND

(b) THAT THE PRESENT OR FUTURE PUBLIC CONVENIENCE AND NECESSITY REQUIRE SUCH CONSTRUCTION OR EXPANSION.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ANY APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OR EXPANSION OF TRANSMISSION FACILITIES PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, THE COMMISSION SHALL ISSUE A FINAL ORDER WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE APPLICATION IS FILED. IF THE COMMISSION DOES NOT ISSUE A FINAL ORDER WITHIN THAT PERIOD, THE APPLICATION SHALL BE DEEMED APPROVED.

SECTION 3. 40-5-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-5-101. New construction - extension - compliance with local zoning rules.

(4) (a) A PUBLIC UTILITY SHALL BE ENTITLED TO RECOVER, THROUGH A SEPARATE RATE ADJUSTMENT CLAUSE, THE COSTS THAT IT PRUDENTLY INCURS IN PLANNING,

DEVELOPING, AND COMPLETING THE CONSTRUCTION OR EXPANSION OF TRANSMISSION FACILITIES FOR WHICH THE UTILITY HAS BEEN GRANTED A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY OR FOR WHICH THE COMMISSION HAS DETERMINED THAT NO CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS REQUIRED. THE TRANSMISSION RATE ADJUSTMENT CLAUSE SHALL BE SUBJECT TO ANNUAL CHANGES, WHICH SHALL BE EFFECTIVE ON JANUARY 1 OF EACH YEAR.

(b) TO PROVIDE ADDITIONAL ENCOURAGEMENT TO UTILITIES TO PURSUE THE CONSTRUCTION AND EXPANSION OF TRANSMISSION FACILITIES, THE COMMISSION SHALL APPROVE CURRENT RECOVERY BY THE UTILITY THROUGH THE ANNUAL RATE ADJUSTMENT CLAUSE OF THE UTILITY'S WEIGHTED AVERAGE COST OF CAPITAL, INCLUDING ITS MOST RECENTLY AUTHORIZED RATE OF RETURN ON EQUITY, ON THE TOTAL BALANCE OF CONSTRUCTION WORK IN PROGRESS RELATED TO SUCH TRANSMISSION FACILITIES AS OF THE END OF THE IMMEDIATELY PRECEDING YEAR. THE RATE ADJUSTMENT CLAUSE SHALL BE REDUCED TO THE EXTENT THAT THE PRUDENTLY INCURRED COSTS BEING RECOVERED THROUGH THE ADJUSTMENT CLAUSE HAVE BEEN INCLUDED IN THE PUBLIC UTILITY'S BASE RATES AS A RESULT OF THE COMMISSION'S FINAL ORDER IN A RATE CASE.

SECTION 4. 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: March 27, 2007