

CHAPTER 384

PUBLIC UTILITIES

HOUSE BILL 08-1227

BY REPRESENTATIVE(S) Madden, Fischer, Frangas, Green, Kerr A., Labuda, Levy, Marostica, McFadyen, McGihon, Merrifield, and Solano;
also SENATOR(S) Tapia.

AN ACT

CONCERNING THE PUBLIC UTILITIES COMMISSION, AND, IN CONNECTION THEREWITH, CONTINUING THE PUBLIC UTILITIES COMMISSION UNDER THE SUNSET LAW, AND MAKING AN APPROPRIATION.

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

SECTION 1. 40-2-101 (3) (b) (I), Colorado Revised Statutes, is amended to read:

40-2-101. Creation - appointment - term - subject to termination - repeal of article. (3) (b) (I) This article is repealed, effective July 1, ~~2008~~ 2019.

SECTION 2. Repeal. 24-34-104 (39) (b) (XVII), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(XVII) ~~The Colorado public utilities commission, created by article 2 of title 40, C.R.S.;~~

SECTION 3. 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (50.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON SEPTEMBER 1, 2019: THE COLORADO PUBLIC UTILITIES COMMISSION, CREATED BY ARTICLE 2 OF TITLE 40,

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

C.R.S.

SECTION 4. 40-1-103 (1) (a), Colorado Revised Statutes, is amended to read:

40-1-103. Public utility defined. (1) (a) (I) The term "public utility", when used in articles 1 to 7 of this title, includes every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation, ~~telegraph corporation~~, water corporation, person, or municipality operating for the purpose of supplying the public for domestic, mechanical, or public uses and every corporation, or person declared by law to be affected with a public interest, and each of the preceding is hereby declared to be a public utility and to be subject to the jurisdiction, control, and regulation of the commission and to the provisions of articles 1 to 7 of this title.

(II) AS USED IN THIS PARAGRAPH (a), "WATER CORPORATION" INCLUDES A COMBINED WATER AND SEWER CORPORATION, WHETHER AS A SINGLE ENTITY OR AS DIFFERENT ENTITIES UNDER COMMON OWNERSHIP.

SECTION 5. 40-2-110.5 (1), Colorado Revised Statutes, is amended to read:

40-2-110.5. Annual fees - motor carriers - public utilities commission motor carrier fund - created. (1) Every motor vehicle carrier that has been issued a certificate pursuant to section 40-10-104, every contract carrier by motor vehicle that has been issued a permit pursuant to section 40-11-103, every motor vehicle carrier that has been registered with the commission pursuant to section 40-10-120, every contract carrier by motor vehicle that has been registered with the commission pursuant to section 40-11-115, every towing carrier that has been issued a permit pursuant to section 40-13-103, every mover that has registered pursuant to section 40-14-103, and every motor vehicle carrier exempt from regulation as a public utility shall pay an annual identification fee, ~~of five dollars to~~ SET ADMINISTRATIVELY BY the commission, for each motor vehicle such carrier owns, controls, operates, or manages. FEES SHALL BE SET BASED UPON THE APPROPRIATION MADE FOR THE PURPOSES SPECIFIED IN SECTION 40-2-110 (2) (a) (I), SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, SUCH THAT THE REVENUE GENERATED FROM ALL MOTOR VEHICLE CARRIER FEES APPROXIMATES THE DIRECT AND INDIRECT COSTS OF THE COMMISSION IN THE SUPERVISION AND REGULATION OF MOTOR CARRIERS. Such fees shall be valid from January 1 to December 31 of each year and shall be valid only for those specific vehicles for which the fee has been paid.

SECTION 6. 40-3-106 (2), Colorado Revised Statutes, is amended to read:

40-3-106. Advantages prohibited - graduated schedules - consideration of household income and other factors - definitions. (2) Nothing in articles 1 to 7 of this title shall be taken to prohibit a public utility engaged in the production, generation, transmission, or furnishing of heat, light, gas, water, power, or ~~telegraph~~ or telephone service from establishing a graduated scale of charges subject to the provisions of this title.

SECTION 7. 40-3-107, Colorado Revised Statutes, is amended to read:

40-3-107. Transmission of business of other companies. Every telephone ~~and~~

telegraph public utility operating in this state shall receive, transmit, and deliver, without discrimination or delay, the conversations and messages of every other telephone or telegraph public utility with whose line a physical connection may have been made.

SECTION 8. 40-3-108, Colorado Revised Statutes, is amended to read:

40-3-108. Rates for long and short distances. No telephone or telegraph public utility subject to ~~the provisions of~~ articles 1 to 7 of this title shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls subject to ~~the provisions of~~ articles 1 to 7 of this title. Upon application to the commission, a telephone or telegraph public utility may be authorized by the commission to charge less for a longer than a shorter distance service for the transmission of messages or conversations in special cases, after investigation; and the commission may from time to time prescribe the extent to which such telephone or telegraph public utility may be relieved from the operation and requirements of this section.

SECTION 9. 40-3-111 (2), Colorado Revised Statutes, is amended to read:

40-3-111. Rates determined after hearing. (2) (a) The commission has the power, after a hearing upon its own motion or upon complaint, to investigate a single rate, fare, toll, rental, charge, classification, rule, ~~regulation~~, contract, or practice, or the entire schedule of rates, fares, tolls, rentals, charges, classifications, rules, ~~regulations~~, contracts, and practices of any public utility; and to establish new rates, fares, tolls, rentals, charges, classifications, rules, ~~regulations~~, contracts, practices, or schedules, in lieu thereof.

(b) AS PART OF ANY INQUIRY OR INVESTIGATION INTO RATE STRUCTURES OF REGULATED ELECTRIC UTILITIES UNDERTAKEN ON OR BEFORE JULY 1, 2009, THE COMMISSION SHALL CONSIDER WHETHER TO ADOPT RETAIL RATE STRUCTURES THAT ENABLE THE USE OF SOLAR OR OTHER RENEWABLE ENERGY RESOURCES IN AGRICULTURAL APPLICATIONS, INCLUDING, BUT NOT LIMITED TO, IRRIGATION PUMPING.

SECTION 10. 40-3.4-105, Colorado Revised Statutes, is amended to read:

40-3.4-105. Low-income telephone assistance - eligibility. (1) Individuals eligible for low-income telephone assistance shall be those persons WHO:

(a) ARE certified by the department of human services as qualified to receive financial assistance payments; ~~administered by the department of human services under programs for old age pension, aid to the blind, aid to the needy disabled, or low-income disabled persons who qualify to receive supplemental security income under the federal "Social Security Act", as amended.~~

(b) ARE CURRENT OR PROSPECTIVE SUBSCRIBERS TO BASIC LOCAL EXCHANGE SERVICE, AS DEFINED IN SECTION 40-15-102;

(c) ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES AND RESIDENTS OF COLORADO; AND

(d) HAVE A MONTHLY HOUSEHOLD GROSS INCOME AT OR BELOW ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LEVEL.

(2) The department of human services shall periodically recertify an individual's eligibility to receive low-income telephone assistance.

(3) IN PROVIDING LOW-INCOME TELEPHONE ASSISTANCE, THE DEPARTMENT OF HUMAN SERVICES SHALL GIVE PRIORITY TO HOUSEHOLDS WHERE ONE OR MORE PERSONS ARE RECIPIENTS OF:

(a) AN OLD AGE PENSION AS SET FORTH IN SECTION 26-2-111 (2), C.R.S.;

(b) AID TO THE NEEDY DISABLED AS SET FORTH IN SECTION 26-2-111 (4), C.R.S.;

(c) AID TO THE BLIND AS SET FORTH IN SECTION 26-2-111 (5), C.R.S.;

(d) SUPPLEMENTAL SOCIAL SECURITY DISABILITY BENEFITS UNDER 42 U.S.C. SEC. 1396 ET SEQ.; OR

(e) COLORADO WORKS ASSISTANCE AS SET FORTH IN SECTIONS 26-2-706 AND 26-2-707, C.R.S.

SECTION 11. 40-4-104, Colorado Revised Statutes, is amended to read:

40-4-104. Connection of noncompetitive lines - costs and rates apportioned.

Whenever the commission, after a hearing upon its own motion or upon complaint, finds that a physical connection can reasonably be made between the lines of two or more noncompetitive ~~telegraph or~~ telephone public utilities whose lines can be made to form a continuous line of communication by the construction and maintenance of suitable connections for the transmission of messages or conversations and that the public convenience and necessity will be served ~~thereby~~ or finds that two or more ~~telegraph or~~ telephone public utilities have failed to establish joint rates, tolls, or charges for service by or over said lines and that joint rates, tolls, or charges ought to be established, the commission may by its order require that such connections be made and that conversations be transmitted and messages transferred over such connection under such rules ~~and regulations~~ as the commission may establish and prescribe through lines and joint rates, tolls, and charges to be made and used, observed, and in force in the future. If such telephone ~~or telegraph~~ public utilities do not agree upon the division between them of the joint cost of ~~such~~ THE physical connection or connections or the division of the joint rates, tolls, or charges established by the commission over such through lines, the commission has authority, after further hearing, to establish ~~such~~ THE division by supplemental order.

SECTION 12. 40-4-106 (2), Colorado Revised Statutes, is amended to read:

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

(2) (a) The commission has the power to determine, order, and prescribe, in

accordance with the plans and specifications to be approved by it, the just and reasonable manner including the particular point of crossing at which the tracks or other facilities of any public utility may be constructed across the ~~tracks or other~~ facilities of any other public utility at grade, or above or below grade, or at the same or different levels, or at which the tracks or other facilities of any railroad corporation may be constructed across ~~the tracks or other facilities of any other railroad corporation or across~~ any public highway at grade, or above or below grade, or at which any public highway may be constructed across the tracks or other facilities of any railroad corporation at grade, or above or below grade and to determine, order, and prescribe the terms and conditions of installation and operation, maintenance, and ~~protection of~~ WARNING AT all such crossings ~~which~~ THAT may be constructed, including the ~~watchman thereat~~ POSTING OF PERSONNEL or the installation and regulation of lights, block, interlocking, or other system of signaling, safety appliance devices, or such other means or instrumentalities as may to the commission appear reasonable and necessary to the end, intent, and purpose that accidents may be prevented and the safety of the public promoted.

(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~~ THE 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, that will accrue from ~~such~~ THE 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~~ THE signals or devices at any crossing, and ~~such~~ THE 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~~ SIGNALIZED. In order to compensate for the use of ~~such~~ THE crossings by the public generally, the commission shall also order that such part of the cost of installing, reconstructing, or improving ~~such~~ THE signals or devices as will not be paid by the railroad corporation be divided between the ~~highway~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION 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 ~~highway~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION 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 ~~highway~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION 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~~ THE signals or devices at the crossing will be paid from funds available under any federal or federal-aid highway act.

SECTION 13. Repeal. 40-4-107, Colorado Revised Statutes, is repealed as follows:

~~**40-4-107. Time limit regulations.** (1) The commission has the power to prescribe the period of time within which express packages shall be received, gathered, transported, and delivered at destination and the area within which express packages shall be gathered and distributed and telegraph messages delivered without extra charge.~~

~~(2) The commission has the power to prescribe by proper rules and regulations the time which consignors or persons ordering cars shall load the cars and the time within which consignees or persons to whom freight may be consigned shall unload and discharge the same, and receive the freight from the freight depots and to enforce the penalties for any failure on the part of the consignors and consignees to conform to such rules as provided in articles 1 to 7 of this title.~~

SECTION 14. 40-6-108 (2), Colorado Revised Statutes, is amended to read:

40-6-108. Complaints - service - notice of hearing. (2) (a) Notice of all applications, petitions, and orders instituting investigations or inquiries shall be given to all persons, firms, or corporations who, in the opinion of the commission, are interested in, or who would be affected by, the granting or denial of any such application, petition, or other proceeding. Except for good cause shown, any person desiring to file an objection or intervene in or participate as a party in any such proceeding shall file his OR HER objection or petition for leave to intervene or, under such rules as the commission may prescribe, file other appropriate pleadings to become a party, within thirty days after the date of ~~such~~ THE notice, or such lesser time as the commission may prescribe. No final action shall be taken by the commission in any ~~such~~ proceeding during the time any such filing is permitted.

(b) ANY PUBLIC UTILITY GIVING NOTICE OF A PROPOSED GAS OR ELECTRIC TARIFF SHALL SERVE SUCH NOTICE UPON THE GOVERNOR'S ENERGY OFFICE OR ITS SUCCESSOR AGENCY. THE OFFICE SHALL BE GRANTED LEAVE TO INTERVENE AS A MATTER OF RIGHT, UPON A TIMELY FILING OF A PETITION OR OTHER PLEADING IN ACCORDANCE WITH THIS SECTION, IN ADJUDICATORY MATTERS AFFECTING GAS OR ELECTRIC UTILITIES; EXCEPT THAT THE OFFICE SHALL NOT BE A PARTY TO ANY INDIVIDUAL COMPLAINT BETWEEN A UTILITY AND AN INDIVIDUAL.

SECTION 15. 40-6-109 (3), Colorado Revised Statutes, is amended to read:

40-6-109. Hearings - orders - record - review - representation of entities in nonadjudicatory proceedings. (3) After the conclusion of any hearing, investigation, or proceeding before the commission, the commission shall make and file its decision. The decision shall be a report in writing in which the commission shall state its findings of fact and conclusions thereon together with its order or requirement. The decision, under the seal of the commission, shall be served upon

all parties AND MADE AVAILABLE to ALL PARTICIPANTS IN the proceeding.

SECTION 16. 40-6-122 (3), Colorado Revised Statutes, is amended, and the said 40-6-122 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

40-6-122. Ex parte communications - disclosure. (3) Each memorandum filed pursuant to subsection (1) of this section shall set forth the time and place at which the communication was made, the persons who were present at that time and place, a statement of the subject matter of the communication, other than proprietary information, and a statement that the subject matter of the communication did not relate to any pending ADJUDICATORY proceeding before the commission. It shall not be necessary for the memorandum to be prepared by the commissioner or judge, but it shall be signed or otherwise authenticated by the commissioner or judge, whose signature or authentication shall constitute a certificate by such commissioner or judge that the memorandum is complete and accurate. All such memoranda shall be filed with the director of the commission, who shall keep them on file and available for public inspection for a minimum of three years after their submission.

(5) AS USED IN THIS SECTION, AN "ADJUDICATORY PROCEEDING" DOES NOT INCLUDE A RULE-MAKING PROCEEDING OR DISCUSSIONS ON PENDING LEGISLATIVE PROPOSALS.

SECTION 17. 40-6.5-106 (3), Colorado Revised Statutes, is amended to read:

40-6.5-106. Powers of consumer counsel. (3) (a) The consumer counsel and any member of his OR HER staff directly involved in a specific ADJUDICATORY proceeding before the commission shall refrain from ex parte communications with members of the commission. The counsel or his OR HER staff shall have all rights and be governed by the same ex parte rules as all other intervenors.

(b) AS USED IN THIS SUBSECTION (3), AN "ADJUDICATORY PROCEEDING" DOES NOT INCLUDE A RULE-MAKING PROCEEDING OR DISCUSSIONS ON PENDING LEGISLATIVE PROPOSALS.

SECTION 18. 40-7-109, Colorado Revised Statutes, is amended to read:

40-7-109. Action to recover penalties - fines paid to general fund. Actions to recover penalties under ~~articles 1 to 7 of this title shall~~ MAY be brought in the name of the people of the state of Colorado in the district court in and for the county or city and county in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of resides. Such action shall be commenced and prosecuted to final judgment by the attorney general AS DIRECTED BY THE COMMISSION. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered. In all such actions, the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise provided in this article. All fines and penalties recovered by the state in any such action, together with the costs thereof, shall be paid into the state treasury. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order.

SECTION 19. Repeal. 40-7-110 (1), Colorado Revised Statutes, is repealed as follows:

~~**40-7-110. Commission to represent people - when.** (1) All orders, decisions, rules, or regulations heretofore made, issued, or promulgated by the railroad commission shall continue in force and have the same effect as though they had been lawfully made, issued, or promulgated under the provisions of articles 1 to 7 of this title.~~

SECTION 20. Article 7 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-7-113.5. Civil penalties applicable to public utilities - exclusion from rate base. (1) (a) IN ADDITION TO ANY OTHER PENALTY OTHERWISE AUTHORIZED BY LAW AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3), (4), AND (5) OF THIS SECTION, A PUBLIC UTILITY FURNISHING ELECTRIC, GAS, WATER, WATER AND SEWER, OR TELECOMMUNICATIONS SERVICE THAT INTENTIONALLY VIOLATES ANY PROVISION OF ARTICLES 1 TO 7 OR 15 OF THIS TITLE OR OF ANY RULE OR ORDER OF THE COMMISSION PURSUANT TO SUCH ARTICLES, WHICH PROVISION IS APPLICABLE TO SUCH UTILITY, MAY BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN TWO THOUSAND DOLLARS; EXCEPT THAT NOTHING IN THIS SUBSECTION (1) SHALL BE CONSTRUED TO AUTHORIZE THE IMPOSITION OF CIVIL PENALTIES UPON:

(I) A COOPERATIVE ELECTRIC ASSOCIATION THAT HAS VOTED TO EXEMPT ITSELF FROM REGULATION PURSUANT TO SECTION 40-9.5-103;

(II) A COOPERATIVE TELEPHONE ASSOCIATION;

(III) A MUNICIPALLY OWNED UTILITY; OR

(IV) A NONPROFIT GENERATION AND TRANSMISSION ELECTRIC CORPORATION OR ASSOCIATION.

(b) CIVIL PENALTIES ASSESSED PURSUANT TO THIS SECTION SHALL BE PAID AND CREDITED TO THE GENERAL FUND, IN ADDITION TO ANY OTHER SANCTIONS THAT MAY BE IMPOSED PURSUANT TO LAW. THE AMOUNT OF ANY SUCH PENALTIES PAID SHALL NOT BE AN ALLOWABLE EXPENSE FOR RATE-MAKING PURPOSES.

(2) (a) THE COMMISSION SHALL ADOPT RULES SPECIFYING THE PARTICULAR VIOLATIONS, AND THE AMOUNT OF THE CIVIL PENALTIES TO BE ASSESSED FOR EACH VIOLATION, PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(b) NO PUBLIC UTILITY SHALL BE ASSESSED A CIVIL PENALTY IF THE UTILITY IS ALREADY SUBJECT TO AN EXISTING REPARATION DUE TO A COMMISSION ORDER, COMMISSION RULE, OR STATUTORY PROVISION FOR THE SAME VIOLATION.

(3) IF ANY PUBLIC UTILITY RECEIVES A SECOND CIVIL PENALTY ASSESSMENT FOR A VIOLATION OF THE SAME STATUTE, RULE, OR ORDER WITHIN ONE YEAR AFTER THE FIRST VIOLATION, THE CIVIL PENALTY ASSESSED FOR THE SECOND VIOLATION SHALL BE NO GREATER THAN TWICE THE AMOUNT SPECIFIED BY RULE FOR SUCH VIOLATION.

(4) IF ANY PUBLIC UTILITY RECEIVES MORE THAN TWO CIVIL PENALTY ASSESSMENTS FOR VIOLATION OF THE SAME STATUTE, RULE, OR ORDER WITHIN ONE YEAR, THE CIVIL PENALTY ASSESSED FOR EACH SUCH SUBSEQUENT VIOLATION SHALL BE NO GREATER THAN THREE TIMES THE AMOUNT SPECIFIED BY RULE FOR SUCH VIOLATION.

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE TOTAL AMOUNT OF CIVIL PENALTIES ASSESSED AGAINST ONE PUBLIC UTILITY UNDER THIS SECTION SHALL NOT EXCEED THE LESSER OF THE FOLLOWING:

(a) ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY SIX-MONTH PERIOD; OR

(b) IN ANY TWELVE-MONTH PERIOD, ONE PERCENT OF THE UTILITY'S GROSS ANNUAL REVENUES FROM SERVICES REGULATED BY THE COMMISSION, BASED ON THE MOST RECENT FISCAL YEAR FOR WHICH FINAL REVENUE FIGURES ARE AVAILABLE.

SECTION 21. 40-7-115, Colorado Revised Statutes, is amended to read:

40-7-115. Each day a separate offense. Each day in which a person violates any statute, rule, ~~or regulation~~ OR ORDER OF THE COMMISSION for which a civil penalty may be imposed under section ~~40-7-113 or 40-7-114~~ 40-7-113, 40-7-113.5, OR 40-7-114 may constitute a separate offense.

SECTION 22. Article 7 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-7-116.5. Enforcement of civil penalties against public utilities. (1)(a) THE DIRECTOR OF THE COMMISSION OR HIS OR HER DESIGNEE SHALL HAVE THE AUTHORITY TO ISSUE CIVIL PENALTY ASSESSMENTS FOR THE VIOLATIONS ENUMERATED IN SECTION 40-7-113.5, SUBJECT TO HEARING BEFORE THE COMMISSION AS SET FORTH IN THIS SECTION. WHEN A PUBLIC UTILITY IS CITED FOR A VIOLATION, THE PUBLIC UTILITY SHALL BE GIVEN NOTICE OF THE VIOLATION IN THE FORM OF A CIVIL PENALTY ASSESSMENT NOTICE.

(b) THE NOTICE SHALL BE TENDERED BY THE DIRECTOR OR HIS OR HER DESIGNEE, EITHER IN PERSON OR BY CERTIFIED MAIL, OR BY PERSONAL SERVICE BY ANY PERSON AUTHORIZED TO SERVE PROCESS UNDER RULE 4(d) OF THE COLORADO RULES OF CIVIL PROCEDURE, AND SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CITED FOR THE VIOLATION;

(II) A CITATION TO THE SPECIFIC STATUTE OR RULE ALLEGED TO HAVE BEEN VIOLATED;

(III) A BRIEF DESCRIPTION OF THE ALLEGED VIOLATION;

(IV) THE DATE AND APPROXIMATE LOCATION OF THE ALLEGED VIOLATION;

(V) THE MAXIMUM PENALTY AMOUNTS PRESCRIBED FOR THE VIOLATION;

(VI) THE DATE OF THE NOTICE;

(VII) A PLACE FOR THE PUBLIC UTILITY TO EXECUTE A SIGNED ACKNOWLEDGMENT OF RECEIPT OF THE CIVIL PENALTY ASSESSMENT NOTICE;

(VIII) A PLACE FOR THE PUBLIC UTILITY TO EXECUTE A SIGNED ACKNOWLEDGMENT OF LIABILITY FOR THE VIOLATION; AND

(IX) ANY OTHER INFORMATION AS MAY BE REQUIRED BY LAW TO CONSTITUTE NOTICE OF A COMPLAINT TO APPEAR FOR HEARING IF THE PRESCRIBED PENALTY IS NOT PAID WITHIN TEN DAYS.

(c) EVERY CITED PUBLIC UTILITY SHALL EXECUTE THE SIGNED ACKNOWLEDGMENT OF RECEIPT OF THE CIVIL PENALTY ASSESSMENT NOTICE. THE ACKNOWLEDGMENT OF LIABILITY SHALL BE EXECUTED AT THE TIME THE PUBLIC UTILITY CITED PAYS THE PRESCRIBED PENALTY. THE PUBLIC UTILITY CITED SHALL PAY THE CIVIL PENALTY SPECIFIED FOR THE VIOLATION INVOLVED AT THE OFFICE OF THE COMMISSION, EITHER IN PERSON OR BY DEPOSITING THE PAYMENT POSTPAID IN THE UNITED STATES MAIL WITHIN TEN DAYS AFTER THE ISSUANCE OF THE CITATION.

(d) IF THE PUBLIC UTILITY CITED DOES NOT PAY THE PRESCRIBED PENALTY WITHIN TEN DAYS AFTER THE ISSUANCE OF THE NOTICE, THE CIVIL PENALTY ASSESSMENT NOTICE SHALL CONSTITUTE A COMPLAINT TO APPEAR BEFORE THE COMMISSION. THE PUBLIC UTILITY CITED SHALL CONTACT THE COMMISSION ON OR BEFORE THE TIME AND DATE SPECIFIED IN THE NOTICE TO SET THE COMPLAINT FOR A HEARING ON THE MERITS IN ACCORDANCE WITH SECTION 40-6-109. IF THE PUBLIC UTILITY CITED FAILS TO CONTACT THE COMMISSION ON OR BEFORE THE TIME AND DATE SPECIFIED, THE COMMISSION SHALL SET THE COMPLAINT FOR HEARING. AT THE HEARING, THE COMMISSION SHALL HAVE THE BURDEN OF DEMONSTRATING A VIOLATION BY A PREPONDERANCE OF THE EVIDENCE.

(2) A CIVIL PENALTY ASSESSMENT NOTICE SHALL NOT BE CONSIDERED DEFECTIVE SO AS TO PROVIDE CAUSE FOR DISMISSAL SOLELY BECAUSE OF A DEFECT IN THE CONTENT OF THE CIVIL PENALTY ASSESSMENT NOTICE. ANY DEFECT IN THE CONTENT OF A CIVIL PENALTY ASSESSMENT NOTICE ISSUED AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY BE CURED BY A MOTION TO AMEND THE SAME FILED WITH THE COMMISSION PRIOR TO HEARING ON THE MERITS; EXCEPT THAT NO SUCH AMENDMENT SHALL BE PERMITTED IF SUBSTANTIAL RIGHTS OF THE PUBLIC UTILITY CITED ARE PREJUDICED.

(3) IN THE CASE OF AN ALLEGED CONTINUING VIOLATION FOR WHICH DAILY PENALTIES WOULD ACCRUE UNDER SECTION 40-7-115, THE ISSUANCE OF A CIVIL PENALTY ASSESSMENT NOTICE SHALL TOLL THE ACCRUAL OF DAILY PENALTIES UNTIL THE LATER TO OCCUR OF THE EXPIRATION OF THE TEN-DAY PERIOD PROVIDED FOR PAYMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION OR, IF THE MATTER IS SET FOR HEARING, UPON THE CONCLUSION OF THE PROCEEDINGS THROUGH ISSUANCE OF AN ORDER, DISMISSAL OF THE COMPLAINT, OR OTHER FINAL AGENCY ACTION, INCLUDING JUDICIAL REVIEW AND APPEAL, IF ANY.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE ASSESSMENT OF A CIVIL PENALTY AGAINST AN INDIVIDUAL EMPLOYEE OF A PUBLIC UTILITY.

SECTION 23. 40-8.7-109, Colorado Revised Statutes, is amended to read:

40-8.7-109. Low-income energy assistance program - eligibility. (1) The organization shall provide energy assistance to individuals and organizations in Colorado. ~~Such assistance~~ INDIVIDUALS ELIGIBLE FOR LOW-INCOME ENERGY ASSISTANCE SHALL BE CURRENT OR PROSPECTIVE UTILITY CUSTOMERS WHO:

(a) ARE CERTIFIED BY THE DEPARTMENT OF HUMAN SERVICES AS QUALIFIED TO RECEIVE FINANCIAL ASSISTANCE PAYMENTS;

(b) ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES AND RESIDENTS OF COLORADO; AND

(c) HAVE A MONTHLY HOUSEHOLD GROSS INCOME AT OR BELOW ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LEVEL.

(2) THE DEPARTMENT OF HUMAN SERVICES SHALL PERIODICALLY RECERTIFY AN INDIVIDUAL'S ELIGIBILITY TO RECEIVE LOW-INCOME ENERGY ASSISTANCE.

(3) IN PROVIDING LOW-INCOME ENERGY ASSISTANCE, THE ORGANIZATION shall give priority to households where one or more persons are recipients of:

(a) An old age pension as set forth in section 26-2-111 (2), C.R.S.;

(b) Aid to the needy disabled as set forth in section 26-2-111 (4), C.R.S.;

(c) Aid to the blind as set forth in section 26-2-111 (5), C.R.S.;

(d) Supplemental social security disability benefits under 42 U.S.C. sec. 1396 et seq.; OR

(e) Colorado works assistance as set forth in sections 26-2-706 and 26-2-707, C.R.S.

SECTION 24. 40-10-105 (2) (a) and (2) (b), Colorado Revised Statutes, are amended to read:

40-10-105. Rules for issuance of certificates - standing to protest - judicial review. (2) (a) The granting of ~~any~~ A certificate of public convenience and necessity to operate a motor vehicle for hire as a taxicab within and between counties with a population of ~~sixty~~ LESS THAN SEVENTY thousand, ~~or greater~~ based on the federal census conducted in ~~1990~~ 2000, shall ~~not be deemed to be an exclusive grant or monopoly, and~~ GOVERNED BY the doctrine of regulated ~~competition shall prevail~~ MONOPOLY.

(b) (I) ~~The commission has authority to grant more than one certificate of public convenience and necessity to operate motor vehicles as taxicabs within and between counties with a population of sixty thousand or greater based on the federal census conducted in 1990 if the commission finds that the present or future public convenience and necessity requires or will require such operation~~ EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), THE

GRANTING OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR VEHICLE FOR HIRE AS A TAXICAB WITHIN AND BETWEEN COUNTIES WITH A POPULATION OF SEVENTY THOUSAND OR GREATER, BASED ON THE FEDERAL CENSUS CONDUCTED IN 2000, SHALL NOT BE DEEMED TO BE AN EXCLUSIVE GRANT OR MONOPOLY, AND THE DOCTRINE OF REGULATED COMPETITION SHALL PREVAIL.

(II) IN AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE TAXICAB SERVICE WITHIN AND BETWEEN THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS, EL PASO, AND JEFFERSON:

(A) THE APPLICANT SHALL HAVE THE INITIAL BURDEN OF PROVING THAT IT IS OPERATIONALLY AND FINANCIALLY FIT TO PROVIDE THE PROPOSED SERVICE. THE APPLICANT SHALL NOT BE REQUIRED TO PROVE THE INADEQUACY OF EXISTING TAXICAB SERVICE, IF ANY, WITHIN THE APPLICANT'S PROPOSED GEOGRAPHIC AREA OF OPERATION.

(B) IF THE APPLICANT SUSTAINS ITS INITIAL BURDEN OF PROOF AS SET FORTH IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), THERE SHALL BE A REBUTTABLE PRESUMPTION OF PUBLIC NEED FOR THE SERVICE, AND THE PARTY OR PARTIES OPPOSING THE APPLICATION SHALL BEAR THE BURDEN TO PROVE THAT THE PUBLIC CONVENIENCE AND NECESSITY DOES NOT REQUIRE GRANTING THE APPLICATION AND THAT THE ISSUANCE OF THE CERTIFICATE WOULD BE DETRIMENTAL TO THE PUBLIC INTEREST.

SECTION 25. 40-10-105.5 (3) and (4), Colorado Revised Statutes, are amended, and the said 40-10-105.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

40-10-105.5. Criminal history record check - taxicab drivers - rules. (3) An individual whose fingerprints are checked pursuant to subsection (1) or (2) of this section may, pending the results of the criminal history record check, drive a taxicab in connection with his or her employment or contract with a holder of a certificate of public convenience and necessity described in subsection (1) of this section for up to ~~sixty~~ NINETY days after the commission forwards the fingerprints to the Colorado bureau of investigation or until the commission receives the results of the check, whichever occurs first. Upon the commission's receipt of the results, the individual may resume driving a taxicab for the holder of the certificate, so long as the driving does not violate applicable law and does not occur while the individual has a criminal conviction on his or her record that disqualifies and prohibits him or her from driving a taxicab pursuant to subsection (4) of this section.

(4) An individual whose criminal history record is checked pursuant to this section shall be disqualified and prohibited from driving a taxicab for a holder of a certificate of public convenience and necessity that contains authority to operate as a taxicab if the criminal history record check reflects that:

(a) ~~Within the ten-year period preceding the date the criminal history record check is completed, the individual was:~~ THE INDIVIDUAL IS NOT OF GOOD MORAL CHARACTER, AS DETERMINED BY THE COMMISSION BASED ON THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK REQUIRED BY THIS SECTION;

~~(f) Convicted in this state of a crime of violence, as defined in section 18-1.3-406 (2), C.R.S.; or~~

~~(H) Convicted of a comparable offense in any other state or in the United States; or~~

(b) (I) THE INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE.

(II) AS USED IN THIS PARAGRAPH (b), "MORAL TURPITUDE" SHALL INCLUDE ANY UNLAWFUL SEXUAL OFFENSE AGAINST A CHILD, AS DEFINED IN SECTION 18-3-411, C.R.S., OR A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES.

~~(b)~~ (c) Within the two years preceding the date the criminal history record check is completed, the individual was:

(I) Convicted in this state of driving under the influence, as defined in section 42-4-1301 (1) (f), C.R.S.; driving with excessive alcoholic content, as described in section 42-4-1301 (2) (a), C.R.S.; driving while ability impaired, as defined in section 42-4-1301 (1) (g), C.R.S.; or driving while an habitual user of a controlled substance, as described in section 42-4-1301 (1) (c), C.R.S.; or

(II) Convicted of a comparable offense in any other state or in the United States.

(4.5) THE COMMISSION SHALL CONSIDER THE INFORMATION RESULTING FROM THE CRIMINAL HISTORY RECORD CHECK IN ITS DETERMINATION AS TO WHETHER THE INDIVIDUAL HAS MET THE STANDARDS SET FORTH IN SECTION 24-5-101 (2), C.R.S.

SECTION 26. 40-16-104.5 (1), (2), (3), and (4), Colorado Revised Statutes, are amended, and the said 40-16-104.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

40-16-104.5. Criminal history record check - passenger transport drivers - rules. (1) An individual who wishes to become employed by or who contracts with a person who offers services by charter or scenic bus, ~~fire crew transport~~, luxury limousine, off-road scenic charter, or children's activity bus to drive a motor vehicle in connection with the service shall submit a set of his or her fingerprints to the commission. The commission shall forward the fingerprints to the Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check. Upon receipt of fingerprints and payment for the costs, the Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The commission shall be the authorized agency to receive information regarding the result of a national criminal history record check. The individual whose fingerprints are checked pursuant to this subsection (1) shall bear the actual costs of the state and national fingerprint-based criminal history record check.

(2) An individual who, prior to May 30, 2007, drives a motor vehicle as part of his or her employment or contract with a person who offers services by charter or scenic bus, ~~fire crew transport~~, luxury limousine, off-road scenic charter, or

children's activity bus shall comply with the fingerprinting requirements of subsection (1) of this section within thirty days after May 30, 2007.

(3) An individual whose fingerprints are checked pursuant to subsection (1) or (2) of this section may, pending the results of the criminal history record check, drive a motor vehicle in connection with his or her employment or contract with a service described in subsection (1) of this section for up to ~~sixty~~ NINETY days after the commission forwards the fingerprints to the Colorado bureau of investigation or until the commission receives the results of the check, whichever occurs first. Upon the commission's receipt of the results, the individual may resume driving a motor vehicle for the service, so long as the driving does not violate applicable law and does not occur while the individual has a criminal conviction on his or her record that disqualifies and prohibits him or her from driving a motor vehicle for the service pursuant to subsection (4) of this section.

(4) An individual whose criminal history record is checked pursuant to this section shall be disqualified and prohibited from driving a motor vehicle for a service described in subsection (1) of this section if the criminal history record check reflects that:

~~(a) Within the ten-year period preceding the date the criminal history record check is completed, the individual was:~~ THE INDIVIDUAL IS NOT OF GOOD MORAL CHARACTER, AS DETERMINED BY THE COMMISSION BASED ON THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK REQUIRED BY THIS SECTION;

~~(f) Convicted in this state of a crime of violence, as defined in section 18-1.3-406 (2), C.R.S.; or~~

~~(H) Convicted of a comparable offense in any other state or in the United States;~~
or

(b) (I) THE INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE.

(II) AS USED IN THIS PARAGRAPH (b), "MORAL TURPITUDE" SHALL INCLUDE ANY UNLAWFUL SEXUAL OFFENSE AGAINST A CHILD, AS DEFINED IN SECTION 18-3-411, C.R.S., OR A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES.

~~(b)~~ (c) Within the two years preceding the date the criminal history record check is completed, the individual was:

(I) Convicted in this state of driving under the influence, as defined in section 42-4-1301 (1) (f), C.R.S.; driving with excessive alcoholic content, as described in section 42-4-1301 (2) (a), C.R.S.; driving while ability impaired, as defined in section 42-4-1301 (1) (g), C.R.S.; or driving while an habitual user of a controlled substance, as described in section 42-4-1301 (1) (c), C.R.S.; or

(II) Convicted of a comparable offense in any other state or in the United States.

(4.5) THE COMMISSION SHALL CONSIDER THE INFORMATION RESULTING FROM THE CRIMINAL HISTORY RECORD CHECK IN ITS DETERMINATION AS TO WHETHER THE

INDIVIDUAL HAS MET THE STANDARDS SET FORTH IN SECTION 24-5-101 (2), C.R.S.

SECTION 27. 40-15-502 (3) (b) (I), Colorado Revised Statutes, is amended, and the said 40-15-502 (3) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

40-15-502. Expressions of state policy. (3) Universal basic service - affordability of basic service. (b) (I) Consistent with the public interest goal of maintaining affordable and just and reasonably priced basic local telecommunications service for all citizens of the state, the commission shall structure telecommunications regulation to achieve a transition to a fully competitive telecommunications market with the policy that prices for residential basic local exchange service, including zone charges, if any, do not rise above the levels in effect on May 24, 1995, for comparable service; ~~except that the price of such service may be adjusted by an amount equal to the change in the United States gross domestic product price index minus an index that represents telecommunications productivity changes as determined by the commission. This adjustment shall be granted only to the extent the commission determines an adjustment is required to cover reasonable costs and shall not exceed five percent in any one year. The commission shall not allow prices for residential basic service plus zone charges to increase outside base rate areas by an amount greater than any price increase within base rate areas.~~

(I.5) IN DETERMINING THE APPROPRIATE MAXIMUM PRICE FOR RESIDENTIAL BASIC SERVICE FOR EACH REGULATED PROVIDER, THE COMMISSION:

(A) SHALL CONSIDER THE CHANGES SINCE MAY 24, 1995, IN THE COSTS OF PROVIDING SUCH SERVICE;

(B) SHALL CONSIDER THE CHANGES SINCE MAY 24, 1995, IN THE NATIONWIDE AVERAGE PRICE FOR COMPARABLE SERVICE;

(C) SHALL CONSIDER FLEXIBLE-PRICING TARIFF OPTIONS; AND

(D) MAY, FOR ANY AFFECTED PROVIDER, CONSIDER THE NET REVENUES DERIVED FROM OTHER SERVICES REGULATED UNDER PART 2 OR 3 OF THIS ARTICLE, WITH THE EXCEPTION OF SWITCHED ACCESS SERVICE, NOTWITHSTANDING ANY PROVISION OF SECTION 40-15-201 TO THE CONTRARY. NOTHING IN THIS SUB-SUBPARAGRAPH (D) SHALL PERMIT THE COMMISSION TO LIMIT THE AFFECTED PROVIDER'S OVERALL RATE OF RETURN OR OVERALL REVENUES WHEN DETERMINING THE APPROPRIATE MAXIMUM PRICE FOR RESIDENTIAL BASIC SERVICE FOR THAT PROVIDER.

SECTION 28. 40-14-103 (2) (a), (3) (c), and (3) (d), Colorado Revised Statutes, are amended to read:

40-14-103. Requirements for issuance of a mover registration. (2) (a) The commission shall issue a certificate of registration to a mover upon completion of the registration and insurance requirements of this article; submission of an annual filing fee to be set by the commission, not to exceed three hundred dollars, by the mover; ~~completion of all fingerprint-based criminal history record checks required by section 40-14-103.5;~~ and payment of the annual identification fee required by

section 40-2-110.5.

(3) The commission may deny or refuse to renew the registration of any mover based upon a determination that the mover, or any of its directors, officers, owners, or general partners:

~~(c) Has not satisfied a final judgment arising out of any civil or criminal action in a court of law, whether in Colorado or any other jurisdiction, unless the judgment is the subject of a pending appeal; or~~

~~(d) Is not of good moral character, as determined by the commission based on the results of the criminal history record check required by section 40-14-103.5 or for other documented reasons.~~

SECTION 29. Repeal. 40-14-103.5, Colorado Revised Statutes, is repealed as follows:

~~**40-14-103.5. Criminal history record check.** (1) Prior to the issuance of a mover registration pursuant to this article, each applicant for a new registration and each director, officer, owner, and general partner thereof shall submit a set of his or her fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Each such person shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the commission.~~

~~(2) The commission shall consider the information resulting from the criminal history record checks in its determination as to whether the applicant has met the standards set forth in section 24-5-101 (2), C.R.S.~~

~~(3) Nothing in this section shall preclude the commission from making further inquiries into the background of the applicant.~~

SECTION 30. 40-14-106 (2) (a), Colorado Revised Statutes, is amended to read:

40-14-106. Revocation of mover registration - rules. (2) (a) In addition to taking any other action authorized by law, the commission may revoke the mover registration of any person who:

(I) Fails or refuses to operate in accordance with this article, an order of the commission, or any applicable rules of the commission adopted in furtherance of this article;

(II) Fails or refuses to abide by the terms of an arbitrator's award under section 40-14-114; OR

(III) No longer satisfies the requirements for a new or renewed registration under section 40-14-103. ~~or~~

(IV) ~~On or after January 1, 2008, has not submitted a set of fingerprints and all required fees for a fingerprint-based criminal history record check, pursuant to section 40-14-103.5, for each director, officer, owner, and general partner of the mover.~~

SECTION 31. Repeal. 40-18-101 (1), Colorado Revised Statutes, is repealed as follows:

40-18-101. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"APTA guidelines" means the provisions contained in the American public transit association's "Manual for the Development of Rail Transit System Safety Plans", published on August 20, 1991, as amended.~~

SECTION 32. 40-18-103 (1)(d), Colorado Revised Statutes, is amended to read:

40-18-103. Commission to promulgate rules. (1) The commission shall promulgate rules as are necessary to:

(d) Require that system safety program standards comply with ~~the APTA guidelines~~ THE REQUIREMENTS OF 49 CFR 659, "RAIL FIXED GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT", at a minimum, and also adequately address the issue of personal security.

SECTION 33. 40-23-101, Colorado Revised Statutes, is amended to read:

40-23-101. Right to reorganize. Whenever the railroads, ~~telegraph lines,~~ property, and franchises of any railroad company, organized and existing under the laws of this state, are sold and conveyed under or by virtue of any power contained in any trust deed or mortgage or pursuant to the judgment or decree of any court of competent jurisdiction, it is lawful to organize a railroad company under the laws of this state for the purpose of purchasing, maintaining, operating, extending, or completing the railroads, PROPERTY, and ~~telegraph lines~~ FRANCHISES so sold and conveyed.

SECTION 34. 40-29-116, Colorado Revised Statutes, is amended to read:

40-29-116. Highway-rail crossing signalization fund created - annual appropriation. (1) The ~~highway~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION fund is hereby created in the state ~~treasurer's office~~ TREASURY, 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~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION 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~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION 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~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION 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~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION fund.

SECTION 35. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public utilities commission fixed utility fund created in section 40-2-114, Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the executive director's office, for legal services, for the fiscal year beginning July 1, 2008, the sum of forty-three thousand two hundred eighteen dollars (\$43,218), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public utilities commission fixed utility fund created in section 40-2-114, Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for further allocation to the public utilities commission, for the fiscal year beginning July 1, 2008, the sum of three hundred fifty-four thousand two hundred fifty-five dollars (\$354,255) and 4.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2008, the sum of forty-three thousand two hundred eighteen dollars (\$43,218) and 0.3 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of regulatory agencies out of the appropriation made in subsection (1) of this section.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the low-income telephone assistance fund created in section 40-3.4-108 (2) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of human services, office of self sufficiency, special purpose welfare programs, low-income telephone assistance program, for the fiscal year beginning July 1, 2008, the sum of fifteen thousand five hundred seventy-eight (\$15,578) and 0.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 36. Effective date. This act shall take effect July 1, 2008.

SECTION 37. 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: June 2, 2008