

## CHAPTER 75

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**PUBLIC UTILITIES**


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**HOUSE BILL 11-1262**

BY REPRESENTATIVE(S) Becker and Levy, Baumgardner, Bradford, Court, Ferrandino, Fischer, Gardner D., Hamner, Holbert, Hullinghorst, Jones, Joshi, Kerr A., Labuda, Lee, Looper, Peniston, Solano, Sonnenberg, Tyler, Waller, Wilson, Brown, Conti, Coram, DelGrosso, Fields, Gardner B., Gerou, Kerr J., Liston, Murray, Nikkel, Pace, Priola, Riesberg, Ryden, Schafer S., Scott, Summers, Todd, McNulty;  
 also SENATOR(S) Johnston and Brophy, Cadman, Giron, Grantham, Guzman, Harvey, King S., Lambert, Mitchell, Nicholson, Renfroe, Scheffel, Schwartz, Jahn.

**AN ACT**

**CONCERNING PROCEDURES TO ENSURE TRANSPARENCY IN THE PROCESS OF BIDDING BY ELECTRIC UTILITIES FOR THE ACQUISITION OF NEW GENERATION FACILITIES.**

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

**SECTION 1.** 40-6-107, Colorado Revised Statutes, is amended to read:

**40-6-107. Production of documents - transparency in planning for future acquisitions - rules.** (1) The commission may require, by order served on any public utility in the manner provided in section 40-6-102 for the service of orders, the production within this state at such time and place as it may designate, of any records and documents kept by ~~said~~ THE public utility in any office or place ~~without~~ OUTSIDE OF this state, or, at its option, verified copies in lieu thereof, so that an examination ~~thereof~~ OF THE RECORDS OR DOCUMENTS may be made by the commission or under its direction.

(2) (a) TO ENSURE TRANSPARENCY IN THE ACQUISITION OF POWER GENERATION RESOURCES FOR THE BENEFIT OF COLORADO RATEPAYERS AND TO PROMOTE FAIRNESS IN ELECTRIC UTILITY COMPETITIVE BIDDING PROCESSES, THE COMMISSION SHALL, WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2), COMMENCE A RULE-MAKING PROCEEDING TO ADOPT RULES, APPLICABLE AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2), TO REQUIRE AN INVESTOR-OWNED ELECTRIC UTILITY THAT IS EVALUATING OR HAS EVALUATED AN EXISTING OR PROPOSED ELECTRIC GENERATING FACILITY AS A POTENTIAL RESOURCE, WHETHER IN CONNECTION WITH A COMMISSION PROCEEDING OR OTHERWISE, TO PROVIDE THE

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

OWNER OR DEVELOPER OF THE GENERATING FACILITY, UPON REQUEST, WITH REASONABLE AND TIMELY ACCESS TO THE MODELING INPUTS AND ASSUMPTIONS THAT WERE USED BY THE INVESTOR-OWNED PUBLIC UTILITY TO EVALUATE THE FACILITY AND THAT REASONABLY RELATE TO THAT FACILITY OR TO THE TRANSMISSION OF ELECTRICITY FROM THAT FACILITY TO THE INVESTOR-OWNED PUBLIC UTILITY. BIDDERS IN A COMPETITIVE ELECTRIC RESOURCE BIDDING PROCESS SHALL BE PERMITTED ACCESS TO THOSE MODELING INPUTS AND ASSUMPTIONS, AS THE MODELING INPUTS AND ASSUMPTIONS APPLY TO THE BIDDERS' PARTICULAR FACILITY, IN TIME TO ENSURE THAT ERRORS OR OMISSIONS MAY BE CORRECTED BEFORE THE COMPETITIVE BIDDING PROCESS IS COMPLETED. IF IT IS DETERMINED THAT AN ERROR OR OMISSION, AS DEFINED BY COMMISSION RULE-MAKING, EXISTS IN THE INVESTOR-OWNED PUBLIC UTILITY'S MODELING, THE COMMISSION SHALL REQUIRE THE INVESTOR-OWNED PUBLIC UTILITY TO PERFORM ADDITIONAL MODELING TO CONFIRM THAT ELECTRIC GENERATING FACILITIES ARE FAIRLY AND ACCURATELY REPRESENTED IN THE RESULTS OF ANY COMPUTER MODELING PERFORMED BY THE INVESTOR-OWNED PUBLIC UTILITY.

(b) IN ANY COMMISSION PROCEEDING REGARDING ELECTRIC RESOURCE PLANNING OR OTHERWISE RELATING TO THE ACQUISITION OF, CONTRACTING FOR, OR RETIREMENT OF ELECTRIC GENERATION FACILITIES, THE COMMISSION SHALL ESTABLISH PROCEDURES REGARDING THE DESIGNATION AND APPROVAL OF INFORMATION AS HIGHLY CONFIDENTIAL THAT PROTECT THE PUBLIC INTEREST AND ASSURE THAT RATEPAYERS RECEIVE THE BENEFITS OF COMPETITION AND TRANSPARENCY WHILE PROTECTING THE TRADE SECRETS OF COMPUTER MODELING SOFTWARE PRODUCERS, INDEPENDENT BIDDERS, AND THE INVESTOR-OWNED PUBLIC UTILITY.

**SECTION 2. 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 29, 2011