

SB072_L.002

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation & Energy.SB21-072 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 40-2-126, **amend**
4 (3) introductory portion and (3)(a); **add** (5); and **recreate and reenact,**
5 **with amendments,** (4) as follows:

6 **40-2-126. Transmission facilities - biennial review - energy**
7 **resource zones - definition - plans - approval - cost recovery.** (3) The
8 commission ~~shall~~ MAY, CONSISTENT WITH ITS AUTHORITY, approve a
9 utility's application for a certificate of public convenience and necessity
10 for the COST-EFFECTIVE construction or expansion of transmission
11 facilities pursuant to ~~paragraph (b) of subsection (2)~~ SUBSECTION (2)(b)
12 of this section if the commission finds that:

13 (a) The construction or expansion:

14 (I) Is required to:

15 (A) Ensure the reliable delivery of electricity to Colorado
16 consumers, ~~or to~~ EITHER ALONE OR IN COMBINATION WITH THE
17 CONSUMERS OF OTHER STATES SERVED BY AN ORGANIZED WHOLESALE
18 MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); OR

19 (B) Enable the utility to meet the renewable energy standards set
20 forth in section 40-2-124 OR ACHIEVE EMISSION REDUCTIONS UNDER
21 SECTION 25-7-102 OR 40-2-125.5;

22 (II) CAN REASONABLY ACCOMMODATE FUTURE EXPANSION,
23 THROUGH THE ADDITION OF MORE LINES OR GREATER CAPACITY, AS MAY
24 BE REQUIRED TO SUPPORT THE UTILITY'S PARTICIPATION IN AN ORGANIZED
25 WHOLESALE MARKET AS DEFINED IN SECTION 40-5-108 (1)(a); and

26 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN
27 RESPONSE TO ANY APPLICATION FOR A CERTIFICATE OF PUBLIC
28 CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OR EXPANSION OF
29 TRANSMISSION FACILITIES THAT IS SUBMITTED TO THE COMMISSION
30 PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION, THE COMMISSION
31 SHALL ISSUE A FINAL ORDER WITHIN ONE HUNDRED EIGHTY DAYS AFTER
32 THE APPLICATION IS DEEMED COMPLETE AND PUBLIC NOTICE OF THE
33 APPLICATION IS GIVEN; EXCEPT THAT THE APPLICANT MAY WAIVE THIS
34 ONE-HUNDRED-EIGHTY-DAY DEADLINE. ABSENT SUCH WAIVER, IF THE
35 COMMISSION DOES NOT ISSUE A FINAL ORDER WITHIN THAT PERIOD, THE
36 APPLICATION IS DEEMED APPROVED.

37 (5) IN ANY CONSTRUCTION OR EXPANSION APPROVED PURSUANT
38 TO THIS SECTION, THE UTILITY SHALL USE ITS OWN EMPLOYEES OR
39 QUALIFIED CONTRACTORS, OR BOTH, BUT SHALL NOT USE A CONTRACTOR

1 UNLESS THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
2 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
3 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
4 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT
5 THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

6 (a) THE DESIGN, PLANNING, OR ENGINEERING OF THE
7 TRANSMISSION FACILITIES;

8 (b) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION
9 FACILITIES; OR

10 (c) ANY WORK PERFORMED IN RESPONSE TO A WARRANTY CLAIM.

11 **SECTION 2.** In Colorado Revised Statutes, **add 40-5-108** as
12 follows:

13 **40-5-108. Electric utility participation in organized wholesale**
14 **markets required - conditions - authority of commission - definitions.**

15 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
16 REQUIRES:

17 (a) (I) "ORGANIZED WHOLESALE MARKET" OR "OWM" MEANS AN
18 ENTITY ESTABLISHED FOR THE PURPOSE OF COORDINATING AND
19 EFFICIENTLY MANAGING THE DISPATCH AND TRANSMISSION OF
20 ELECTRICITY AMONG PUBLIC UTILITIES ON A MULTISTATE OR REGIONAL
21 BASIS AND THAT:

22 (A) IS APPROVED BY THE FEDERAL ENERGY REGULATORY
23 COMMISSION;

24 (B) EFFECTS SEPARATE CONTROL OF TRANSMISSION FACILITIES
25 FROM CONTROL OF GENERATION FACILITIES;

26 (C) IMPLEMENTS, TO THE EXTENT REASONABLY POSSIBLE, POLICIES
27 AND PROCEDURES DESIGNED TO MINIMIZE PANCAKED TRANSMISSION
28 RATES WITHIN COLORADO;

29 (D) IMPROVES, TO THE EXTENT REASONABLY POSSIBLE, SERVICE
30 RELIABILITY WITHIN COLORADO;

31 (E) ACHIEVES, TO THE EXTENT REASONABLY POSSIBLE, THE
32 OBJECTIVES OF AN OPEN AND COMPETITIVE ELECTRIC GENERATION
33 MARKETPLACE, ELIMINATION OF BARRIERS TO MARKET ENTRY, AND
34 PRECLUSION OF CONTROL OF BOTTLENECK ELECTRIC TRANSMISSION
35 FACILITIES IN THE PROVISION OF RETAIL ELECTRIC SERVICE;

36 (F) IS OF SUFFICIENT SCOPE OR OTHERWISE OPERATES TO
37 SUBSTANTIALLY INCREASE ECONOMICAL SUPPLY OPTIONS FOR
38 CUSTOMERS;

39 (G) HAS A STRUCTURE OF GOVERNANCE OR CONTROL THAT IS
40 INDEPENDENT OF THE OWNERSHIP AND OPERATION OF THE TRANSMISSION
41 FACILITIES, AND NO MEMBER OF ITS BOARD OF DIRECTORS HAS AN
42 AFFILIATION WITH A USER OR WITH AN AFFILIATE OF A USER DURING THE
43 MEMBER'S TENURE ON THE BOARD SO AS TO UNDULY AFFECT THE OWM'S
44 PERFORMANCE. AS USED IN THIS SUBSECTION (1)(a)(I)(G), "USER" MEANS
45 ANY ENTITY OR AFFILIATE OF THAT ENTITY THAT BUYS OR SELLS ELECTRIC

1 ENERGY IN THE OWM'S REGION OR IN A NEIGHBORING REGION.

2 (H) OPERATES UNDER POLICIES THAT PROMOTE POSITIVE
3 PERFORMANCE DESIGNED TO SATISFY THE ELECTRICITY REQUIREMENTS OF
4 CUSTOMERS;

5 (I) HAS AN INCLUSIVE AND OPEN STAKEHOLDER PROCESS THAT
6 DOES NOT PLACE UNREASONABLE BURDENS ON, OR PRECLUDE
7 MEANINGFUL PARTICIPATION BY, ANY STAKEHOLDER GROUP;

8 (J) PROMOTES AND ASSISTS NEW ECONOMIC DEVELOPMENT IN
9 COLORADO; AND

10 (K) CONSISTENT WITH AND IN SUPPORT OF FERC POLICIES,
11 INCLUDING FERC ORDER NO. 1000, "TRANSMISSION PLANNING AND COST
12 ALLOCATION", AND LOCAL PLANNING BY COLORADO PUBLIC UTILITIES, IS
13 CAPABLE OF: PLANNING FOR IMPROVED EFFICIENCY OF USE, FUTURE
14 EXPANSION, AND CONSIDERATION OF ALL OPTIONS FOR MEETING
15 TRANSMISSION NEEDS; PROVIDING EFFECTIVE COST ALLOCATIONS THAT
16 REFLECT BENEFITS OF TRANSMISSION INVESTMENTS; MAINTAINING
17 REAL-TIME RELIABILITY OF THE ELECTRIC TRANSMISSION SYSTEM;
18 ENSURING COMPARABLE AND NONDISCRIMINATORY TRANSMISSION ACCESS
19 AND NECESSARY SERVICES; MINIMIZING SYSTEM CONGESTION; AND
20 FURTHER ADDRESSING REAL OR POTENTIAL TRANSMISSION CONSTRAINTS.

21 (II) "ORGANIZED WHOLESALE MARKET" INCLUDES A REGIONAL
22 TRANSMISSION ORGANIZATION, ALSO KNOWN AS AN RTO, AND AN
23 INDEPENDENT SYSTEM OPERATOR, ALSO KNOWN AS AN ISO.

24 (b) "TRANSMISSION UTILITY" MEANS A PUBLIC UTILITY THAT:

25 (I) IS A WHOLESALE ELECTRICITY SUPPLIER; AND

26 (II) OWNS AND OPERATES ELECTRIC TRANSMISSION LINES CAPABLE
27 OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE HUNDRED
28 KILOVOLTS OR MORE.

29 (2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
30 (2)(a)(II) OF THIS SECTION, AND EXCEPT FOR MUNICIPALLY OWNED
31 UTILITIES AND POWER AUTHORITIES, ALL COLORADO PUBLIC UTILITIES
32 THAT OWN TRANSMISSION FACILITIES AND GENERATION AND
33 TRANSMISSION COOPERATIVES WITH NETWORKED FACILITIES SHALL JOIN
34 AN ORGANIZED WHOLESALE MARKET ON OR BEFORE JANUARY 1, 2030.

35 (II) UPON APPLICATION BY A TRANSMISSION UTILITY, THE
36 COMMISSION MAY WAIVE OR DELAY THE REQUIREMENT STATED IN
37 SUBSECTION (2)(a)(I) OF THIS SECTION IF:

38 (A) THE TRANSMISSION UTILITY HAS MADE ALL REASONABLE
39 EFFORTS TO COMPLY WITH THE REQUIREMENT BUT IS UNABLE TO FIND A
40 VIABLE AND AVAILABLE OWM THAT IT CAN JOIN BY JANUARY 1, 2030; OR

41 (B) THE COMMISSION HAS DETERMINED, BASED ON THE STUDY
42 CONDUCTED IN ACCORDANCE WITH ARTICLE 2.3 OF THIS TITLE 40, THAT
43 REQUIRING THE TRANSMISSION UTILITY TO JOIN AN OWM IS NOT IN THE
44 PUBLIC INTEREST.

45 (b) THE COMMISSION IS DIRECTED TO PARTICIPATE ON BEHALF OF

1 THE STATE OF COLORADO, AS IT DEEMS APPROPRIATE, IN PROCEEDINGS
2 BEFORE THE FERC INVOLVING THE MANAGEMENT OF PHYSICAL
3 CONNECTIONS, SHARING OF DATA, AND INTERPRETATION AND
4 IMPLEMENTATION OF TARIFF AND BUSINESS PRACTICES BETWEEN OWMs
5 WHOSE BOUNDARIES MEET WITHIN COLORADO.

6 (3) THE COMMISSION SHALL CONSIDER ALLOWING, AND MAY
7 ALLOW, A TRANSMISSION UTILITY THAT JOINS AN OWM TO RECOVER
8 OWM SUBSCRIPTION FEES AND OTHER PRUDENTLY INCURRED COSTS OF
9 PARTICIPATION IN THE OWM THROUGH RATES OR THROUGH A NEW OR
10 EXISTING TRANSMISSION RIDER.

11 **SECTION 3.** In Colorado Revised Statutes, 40-15-601, **amend**
12 **(6)**; and **add (6.5)** as follows:

13 **40-15-601. Definitions.** As used in this part 6, unless the context
14 otherwise requires:

15 (6) "Electric utility" means:

16 (a) A cooperative electric association, as defined in section
17 40-9.5-102;

18 (b) AN INVESTOR-OWNED ELECTRIC UTILITY;

19 (c) A GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC
20 ASSOCIATION; OR

21 (d) THE FEDERAL WESTERN AREA POWER ADMINISTRATION WITHIN
22 THE UNITED STATES DEPARTMENT OF ENERGY.

23 (6.5) "GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC
24 ASSOCIATION" HAS THE SAME MEANING AS "WHOLESALE ELECTRIC
25 COOPERATIVE" AS SET FORTH IN SECTION 40-2-136 (3)(c).

26 **SECTION 4.** In Colorado Revised Statutes, **add** article 42 to title
27 40 as follows:

28 **ARTICLE 42**

29 **Colorado Electric Transmission Authority Act**

30 **40-42-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 42 IS
31 THE "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT".

32 **40-42-102. Definitions.** AS USED IN THIS ARTICLE 42, UNLESS THE
33 CONTEXT OTHERWISE REQUIRES:

34 (1) "ACQUIRE" MEANS TO OBTAIN ELIGIBLE FACILITIES BY LEASE,
35 CONSTRUCTION, RECONSTRUCTION, PURCHASE, OR, AS AUTHORIZED BY
36 SECTION 40-42-104 (1)(q) AND SUBJECT TO THE REQUIREMENTS OF
37 ARTICLES 1 TO 7 OF TITLE 38, THE EXERCISE OF THE POWER OF EMINENT
38 DOMAIN.

39 (2) "AUTHORITY" MEANS THE COLORADO ELECTRIC TRANSMISSION
40 AUTHORITY CREATED IN SECTION 40-42-103.

41 (3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
42 AUTHORITY.

43 (4) "BONDS" MEANS ELECTRIC TRANSMISSION BONDS ISSUED AS
44 AUTHORIZED BY THIS ARTICLE 42 AND INCLUDES NOTES, WARRANTS,
45 BONDS, TEMPORARY BONDS, AND ANTICIPATION NOTES ISSUED BY THE

1 AUTHORITY.

2 (5) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION
3 CREATED IN SECTION 40-2-101.

4 (6) "ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND" OR
5 "OPERATIONAL FUND" MEANS THE FUND CREATED IN SECTION 40-42-106.

6 (7) "ELECTRIC TRANSMISSION BONDING FUND" OR "BONDING
7 FUND" MEANS THE FUND CREATED IN SECTION 40-42-105 (3).

8 (8) "ELECTRIC UTILITY" MEANS AN ENTITY OPERATING FOR THE
9 PURPOSE OF SUPPLYING OR TRANSMITTING ELECTRICITY TO THE PUBLIC
10 FOR DOMESTIC, MECHANICAL, OR PUBLIC USES AND INCLUDES AN
11 INVESTOR-OWNED ELECTRIC UTILITY SUBJECT TO REGULATION UNDER
12 ARTICLES 1 TO 7 OF THIS TITLE 40, A MUNICIPALLY OWNED UTILITY, A
13 TRANSMISSION UTILITY, AS DEFINED IN SECTION 40-5-108 (1)(b), A
14 COOPERATIVE ELECTRIC ASSOCIATION, A NONPROFIT ELECTRIC
15 CORPORATION OR ASSOCIATION, AND EVERY OTHER SUPPLIER OF ELECTRIC
16 ENERGY, WHETHER SUPPLYING ELECTRIC ENERGY FOR THE USE OF THE
17 PUBLIC OR FOR THE USE OF ITS OWN MEMBERS.

18 (9) "ELIGIBLE FACILITIES" MEANS FACILITIES THAT ARE FINANCED
19 OR ACQUIRED BY THE AUTHORITY.

20 (10) "FACILITIES" MEANS ELECTRIC TRANSMISSION AND
21 INTERCONNECTED STORAGE FACILITIES AND ALL RELATED STRUCTURES,
22 PROPERTIES, AND SUPPORTING INFRASTRUCTURE, INCLUDING ANY
23 INTERESTS THEREIN.

24 (11) "FERC" MEANS THE FEDERAL ENERGY REGULATORY
25 COMMISSION.

26 (12) "FINANCE" OR "FINANCING" MEANS THE LENDING OF BOND
27 PROCEEDS BY THE AUTHORITY TO A PUBLIC UTILITY OR OTHER PRIVATE
28 PERSON FOR THE PURPOSE OF PLANNING, ACQUIRING, OPERATING, AND
29 MAINTAINING ELIGIBLE FACILITIES IN WHOLE OR IN PART BY THE PUBLIC
30 UTILITY OR OTHER PRIVATE PERSON.

31 (13) "PROJECT" MEANS AN UNDERTAKING BY THE AUTHORITY TO
32 FINANCE OR TO PLAN, ACQUIRE, MAINTAIN, AND OPERATE ELIGIBLE
33 FACILITIES LOCATED PARTLY OR ENTIRELY WITHIN COLORADO.

34 (14) "STORAGE" MEANS THE CONSTRUCTION, EXPANSION, OR USE
35 OF AN ENERGY STORAGE SYSTEM, AS DEFINED IN SECTION 40-2-202 (2).

36 **40-42-103. Authority - creation - board - open meetings and**
37 **open records.** (1) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
38 IS HEREBY CREATED AS AN INDEPENDENT PUBLIC BODY POLITIC AND
39 CORPORATE. THE AUTHORITY IS A PUBLIC INSTRUMENTALITY, AND ITS
40 EXERCISE OF THE POWERS AS AUTHORIZED BY THIS ARTICLE 42 IS THE
41 PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. THE AUTHORITY IS A
42 POLITICAL SUBDIVISION OF THE STATE, IS NOT AN AGENCY OF STATE
43 GOVERNMENT, AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY
44 ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

45 (2) (a) THE POWERS OF THE AUTHORITY ARE VESTED IN A BOARD

1 OF DIRECTORS, WHICH CONSISTS OF THE FOLLOWING NINE MEMBERS:
2 (I) TWO MEMBERS APPOINTED BY THE GOVERNOR WITH THE
3 CONSENT OF THE SENATE;
4 (II) THE DIRECTOR OF THE COLORADO ENERGY OFFICE CREATED
5 IN SECTION 24-38.5-101 OR THE DIRECTOR'S DESIGNEE;
6 (III) THREE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
7 OF REPRESENTATIVES; AND
8 (IV) THREE MEMBERS APPOINTED BY THE PRESIDENT OF THE
9 SENATE.
10 (b) THE APPOINTED MEMBERS OF THE BOARD MUST HAVE THE
11 FOLLOWING QUALIFICATIONS:
12 (I) OF THE MEMBERS APPOINTED BY THE GOVERNOR, ONE MUST
13 HAVE EXPERTISE IN FINANCIAL MATTERS INVOLVING THE FINANCING OF
14 MAJOR ELECTRIC TRANSMISSION PROJECTS AND THE OTHER MUST
15 REPRESENT THE INTERESTS OF ELECTRIC UTILITY CUSTOMERS RESIDING
16 WEST OF THE CONTINENTAL DIVIDE;
17 (II) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
18 OF REPRESENTATIVES, ONE MUST HAVE UTILITY EXPERIENCE;
19 (III) OF THE MEMBERS APPOINTED BY THE PRESIDENT OF THE
20 SENATE, ONE MUST REPRESENT THE INTERESTS OF WILDLIFE
21 CONSERVATION AND LAND USE;
22 (IV) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
23 OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE:
24 (A) ONE MUST REPRESENT THE INTERESTS OF ORGANIZED LABOR;
25 (B) ONE MUST REPRESENT THE INTERESTS OF RESIDENTIAL
26 CUSTOMERS OF ELECTRIC UTILITIES;
27 (C) ONE MUST REPRESENT THE INTERESTS OF COMMERCIAL OR
28 INDUSTRIAL CUSTOMERS OF ELECTRIC UTILITIES; AND
29 (D) ONE MUST HAVE KNOWLEDGE OF RENEWABLE ENERGY
30 DEVELOPMENT.
31 (c) A MEMBER OF THE BOARD SHALL NOT REPRESENT A PERSON
32 THAT OWNS OR OPERATES FACILITIES.
33 (d) BOARD MEMBERS SHALL SERVE FOUR-YEAR TERMS; EXCEPT
34 THAT, OF THE APPOINTED MEMBERS INITIALLY APPOINTED TO THE BOARD,
35 ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
36 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
37 REPRESENTATIVES SHALL SERVE INITIAL TERMS OF THREE YEARS AND ONE
38 OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
39 MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE SHALL SERVE
40 INITIAL TERMS OF TWO YEARS. THE REMAINDER OF THE APPOINTED
41 MEMBERS INITIALLY APPOINTED TO THE BOARD SHALL SERVE FOUR-YEAR
42 TERMS. THEREAFTER, ALL APPOINTED MEMBERS OF THE BOARD SHALL
43 SERVE FOUR-YEAR TERMS. A VACANCY IN THE MEMBERSHIP OF THE BOARD
44 MUST BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT
45 FOR THE REMAINDER OF THE EXPIRED TERM ONLY.

1 (e) AN APPOINTED MEMBER OF THE BOARD IS ELIGIBLE FOR
2 REAPPOINTMENT. AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF
3 THE BOARD FOR CAUSE.

4 (f) BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION FOR
5 THEIR SERVICES BUT SHALL BE REIMBURSED FOR THEIR REASONABLE AND
6 NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE
7 PERFORMANCE OF THEIR OFFICIAL DUTIES.

8 (3) THE MEMBERS OF THE BOARD SHALL ELECT A CHAIR AND A
9 VICE-CHAIR. FOUR MEMBERS OF THE BOARD CONSTITUTE A QUORUM.

10 (4) THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
11 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6 OF
12 TITLE 24, AND TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF
13 ARTICLE 72 OF TITLE 24. HOWEVER, INFORMATION OBTAINED BY THE
14 AUTHORITY THAT IS DESIGNATED BY THE BOARD AS PROPRIETARY
15 TECHNICAL OR BUSINESS INFORMATION IS CONFIDENTIAL AND IS NOT
16 SUBJECT TO INSPECTION PURSUANT TO THE "COLORADO OPEN RECORDS
17 ACT". INFORMATION THAT THE BOARD MAY DESIGNATE AS PROPRIETARY
18 CONFIDENTIAL INFORMATION INCLUDES POWER PURCHASE AGREEMENTS,
19 COSTS OF PRODUCTION, COSTS OF TRANSMISSION, TRANSMISSION SERVICE
20 AGREEMENTS, CREDIT REVIEWS, DETAILED POWER MODELS, AND
21 FINANCING STATEMENTS.

22 **40-42-104. General and specific powers and duties of the**
23 **authority.** (1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE 42, THE
24 AUTHORITY, ACTING THROUGH THE BOARD, HAS THE POWER TO:

25 (a) HOLD AND EXERCISE ALL RIGHTS, DUTIES, PRIVILEGES,
26 IMMUNITIES, LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND
27 A POLITICAL SUBDIVISION OF THE STATE;

28 (b) SUE AND BE SUED;

29 (c) HAVE AN OFFICIAL SEAL AND ALTER THE SEAL AT THE BOARD'S
30 PLEASURE;

31 (d) ESTABLISH REASONABLE ADMINISTRATIVE AND PROCEDURAL
32 BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR
33 THE CONDUCT OF ITS AFFAIRS AND BUSINESS;

34 (e) MAINTAIN AN OFFICE AT ANY PLACE IN COLORADO THAT IT
35 MAY DETERMINE;

36 (f) ACQUIRE, HOLD, USE, AND DISPOSE OF REAL AND PERSONAL
37 PROPERTY AND ITS INCOME, REVENUE, FUNDS, AND MONEY;

38 (g) SOLICIT AND RECEIVE AND EXPEND GIFTS, GRANTS, AND
39 DONATIONS;

40 (h) MAKE AND ENTER INTO ALL CONTRACTS, LEASES, AND
41 AGREEMENTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS AND
42 ASSIGNMENTS OF PAYMENTS TO HOST LANDOWNERS, THAT ARE
43 NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES AND THE
44 EXERCISE OF ITS POWERS UNDER THIS ARTICLE 42, INCLUDING:

45 (I) CONTRACTS FOR THE LEASE AND OPERATION BY THE

1 AUTHORITY OF ELIGIBLE FACILITIES OWNED BY AN ELECTRIC UTILITY OR
2 OTHER PRIVATE PERSON; AND
3 (II) CONTRACTS FOR LEASING ELIGIBLE FACILITIES OWNED BY THE
4 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT THE AUTHORITY
5 DEPOSIT ANY REVENUE DERIVED PURSUANT TO THE LEASE INTO THE
6 ELECTRIC TRANSMISSION BONDING FUND;
7 (i) UNLESS OTHERWISE SPECIFICALLY PROHIBITED BY THIS ARTICLE
8 42, DEPOSIT MONEY OF THE AUTHORITY IN ANY BANKING INSTITUTION
9 WITHIN OR OUTSIDE THE STATE;
10 (j) FIX THE TIME AND PLACE OR PLACES AT WHICH ITS REGULAR
11 AND SPECIAL MEETINGS ARE TO BE HELD;
12 (k) HIRE A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND
13 AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO HIRE OTHER STAFF AS
14 NECESSARY FOR THE OPERATION OF THE AUTHORITY;
15 (l) USE THE SERVICES OF EXECUTIVE DEPARTMENTS OF THE STATE
16 UPON MUTUALLY AGREEABLE TERMS AND CONDITIONS;
17 (m) ENTER INTO PARTNERSHIPS WITH PUBLIC OR PRIVATE ENTITIES;
18 (n) IDENTIFY AND ESTABLISH CORRIDORS FOR THE TRANSMISSION
19 OF ELECTRICITY WITHIN THE STATE;
20 (o) THROUGH PARTICIPATION IN APPROPRIATE REGIONAL
21 TRANSMISSION FORUMS AND OTHER ORGANIZATIONS, INCLUDING
22 ORGANIZED WHOLESALE MARKETS, AS DEFINED IN SECTION 40-5-108
23 (1)(a), COORDINATE, INVESTIGATE, PLAN, PRIORITIZE, AND NEGOTIATE
24 WITH ENTITIES WITHIN AND OUTSIDE COLORADO FOR THE ESTABLISHMENT
25 OF INTERSTATE TRANSMISSION CORRIDORS AND ENGAGE IN OTHER
26 TRANSMISSION PLANNING ACTIVITIES THAT WOULD INCREASE GRID
27 RELIABILITY, HELP COLORADO MEET ITS CLEAN ENERGY GOALS, AND AID
28 IN ECONOMIC DEVELOPMENT;
29 (p) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS
30 SECTION, CONDUCT A TRANSPARENT AND COMPETITIVE PROCESS TO
31 SELECT A QUALIFIED TRANSMISSION OPERATOR, AS DEFINED BY THE
32 COMMISSION, TO ASSUME THE RESPONSIBILITY TO CARRY OUT ALL
33 REQUIRED FINANCING, PLANNING, ACQUISITION, MAINTENANCE, AND
34 OPERATION OF ELIGIBLE FACILITIES NECESSARY OR USEFUL FOR THE
35 ACCOMPLISHMENT OF THE PURPOSES OF THIS ARTICLE 42;
36 (q) SUBJECT TO THE REQUIREMENTS OF ARTICLES 1 TO 7 OF TITLE
37 38, HAVE AND EXERCISE THE POWER OF EMINENT DOMAIN FOR ACQUIRING
38 PROPERTY OR RIGHTS-OF-WAY WHEN NEEDED FOR PROJECTS IF THE
39 COMMISSION DETERMINES THAT DOING SO DOES NOT INVOLVE A TAKING
40 OF THE PROPERTY OF AN ELECTRIC UTILITY OR MATERIALLY DIMINISH
41 ELECTRIC SERVICE RELIABILITY OF THE TRANSMISSION SYSTEM IN
42 COLORADO; EXCEPT THAT, IF LAND TO BE ACQUIRED THROUGH EMINENT
43 DOMAIN IS SUBJECT TO A PERPETUAL CONSERVATION EASEMENT, THE
44 AUTHORITY SHALL PAY COMPENSATION TO THE OWNER AS THOUGH THE
45 LAND WERE NOT SUBJECT TO A PERPETUAL CONSERVATION EASEMENT.

1 (r) FOR ANY PROJECT, PROVIDE INFORMATION AND TRAINING TO
2 EMPLOYEES OF THE PROJECT REGARDING:
3 (I) ANY UNIQUE HAZARDS THAT MAY BE POSED BY THE PROJECT;
4 (II) SAFE WORK PRACTICES; AND
5 (III) EMERGENCY PROCEDURES;
6 (s) ISSUE BONDS AS NECESSARY TO UNDERTAKE A PROJECT;
7 (t) COLLECT PAYMENTS OF REASONABLE RATES, FEES, INTEREST,
8 OR OTHER CHARGES FROM PERSONS USING ELIGIBLE FACILITIES TO
9 FINANCE ELIGIBLE FACILITIES AND FOR OTHER SERVICES RENDERED BY THE
10 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT ANY REVENUE DERIVED
11 FROM PAYMENTS MADE TO THE AUTHORITY SHALL BE DEPOSITED IN THE
12 ELECTRIC TRANSMISSION BONDING FUND;
13 (u) MAKE DETERMINATIONS ABOUT THE EFFICIENT USE OF
14 EXISTING RIGHTS-OF-WAY ON PROJECTS IT PROPOSES TO DEVELOP AS A
15 PRECONDITION TO PIONEERING NEW RIGHTS-OF-WAY FOR SUCH PROJECTS;
16 AND
17 (v) DO ANY AND ALL THINGS NECESSARY OR CONVENIENT TO
18 CARRY OUT ITS PURPOSES AND EXERCISE THE POWERS GIVEN AND
19 GRANTED IN THIS ARTICLE 42.
20 (2) EXCEPT AS PROVIDED IN THIS SUBSECTION (2), THE AUTHORITY
21 SHALL NOT ENTER INTO A PROJECT IF AN ELECTRIC UTILITY OR A
22 NONINCUMBENT TRANSMISSION PROVIDER OR OTHER ENTITY IS
23 CONSTRUCTING OR HAS CONSTRUCTED THE FACILITIES OR IS PROVIDING
24 THE SERVICES CONTEMPLATED BY THE AUTHORITY. BEFORE THE
25 AUTHORITY ENTERS INTO A PROJECT, THE FOLLOWING PROCEDURAL
26 REQUIREMENTS MUST BE MET:
27 (a) THE AUTHORITY SHALL PROVIDE TO EACH ELECTRIC UTILITY
28 AND THE COMMISSION AND PUBLISH AT LEAST ONCE IN A NEWSPAPER OF
29 GENERAL CIRCULATION IN COLORADO, AT LEAST ONCE IN A NEWSPAPER OF
30 GENERAL CIRCULATION IN THE AREA WHERE THE ELIGIBLE FACILITIES WILL
31 BE LOCATED, AND CONTINUOUSLY ON A PUBLICLY ACCESSIBLE WEB PAGE
32 MAINTAINED BY THE AUTHORITY AN INITIAL NOTICE DESCRIBING THE
33 PROJECT THAT THE AUTHORITY IS CONSIDERING.
34 (b) ANY PERSON WITH AN INTEREST THAT MAY BE AFFECTED BY
35 THE PROPOSED PROJECT HAS THIRTY DAYS AFTER THE DATE OF THE LAST
36 PRINTED PUBLICATION OF THE INITIAL NOTICE TO SUBMIT A WRITTEN
37 CHALLENGE CONCERNING THE PROPOSED PROJECT TO THE AUTHORITY. IF
38 THE AUTHORITY RECEIVES A CHALLENGE WITHIN THE THIRTY DAYS, THE
39 AUTHORITY SHALL HOLD A PUBLIC HEARING NO SOONER THAN THIRTY
40 DAYS AFTER RECEIVING THE CHALLENGE AND AT LEAST TWO WEEKS AFTER
41 POSTING NOTICE OF THE HEARING IN THE SAME NEWSPAPERS IN WHICH AND
42 WEB PAGE ON WHICH THE INITIAL NOTICE WAS GIVEN. FOLLOWING THE
43 PUBLIC HEARING, THE AUTHORITY SHALL MAKE A FINAL DETERMINATION
44 ON WHETHER THE AUTHORITY WILL IMPLEMENT THE PROPOSED PROJECT
45 AND GIVE NOTICE OF THE DETERMINATION IN THE SAME NEWSPAPERS AND

1 ON THE SAME WEB PAGE AS THE INITIAL NOTICE GIVEN. ANY PERSON OR
2 GOVERNMENTAL ENTITY PARTICIPATING IN THE HEARING MAY APPEAL THE
3 FINAL DETERMINATION BY FILING A NOTICE OF APPEAL WITH THE DISTRICT
4 COURT FOR THE CITY AND COUNTY OF DENVER WITHIN THIRTY-FIVE DAYS
5 AFTER THE DATE OF THE FINAL DETERMINATION.

6 (c) ELECTRIC UTILITIES AND OTHER PERSONS WILLING AND ABLE
7 TO PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
8 FACILITIES DESCRIBED IN THE NOTICE HAVE THE FOLLOWING PERIOD
9 WITHIN WHICH TO NOTIFY THE AUTHORITY OF INTENTION AND ABILITY TO
10 PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
11 FACILITIES DESCRIBED IN THE NOTICE:

12 (I) WITHIN NINETY DAYS AFTER THE DATE OF THE LAST PRINTED
13 PUBLICATION OF THE INITIAL NOTICE IF NO CHALLENGE IS RECEIVED
14 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION; OR

15 (II) WITHIN NINETY DAYS AFTER THE DATE OF THE NOTICE OF
16 DETERMINATION IF A CHALLENGE IS RECEIVED PURSUANT TO SUBSECTION
17 (2)(b) OF THIS SECTION.

18 (d) ABSENT NOTIFICATION BY AN ELECTRIC UTILITY OR OTHER
19 PERSON PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, OR IF A
20 PERSON, HAVING GIVEN NOTICE OF INTENTION TO PROVIDE MONEY FOR,
21 ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE FACILITIES
22 CONTEMPLATED BY THE AUTHORITY, FAILS TO MAKE A GOOD-FAITH
23 EFFORT TO BEGIN TO DO SO WITHIN SIX MONTHS AFTER THE DATE THE
24 PERSON NOTIFIED THE AUTHORITY OF ITS INTENTION, THE AUTHORITY MAY
25 PROCEED TO FINANCE, PLAN, ACQUIRE, MAINTAIN, AND OPERATE THE
26 ELIGIBLE FACILITIES ORIGINALLY CONTEMPLATED. HOWEVER, A PERSON
27 THAT, WITHIN THE TIME REQUIRED, HAS MADE NECESSARY APPLICATIONS
28 TO ACQUIRE FEDERAL, STATE, LOCAL, OR PRIVATE PERMITS, CERTIFICATES,
29 OR OTHER APPROVALS NECESSARY TO ACQUIRE THE ELIGIBLE FACILITIES
30 IS DEEMED TO HAVE COMMENCED THE ACQUISITION AS LONG AS THE
31 PERSON DILIGENTLY PURSUES THE PERMITS, CERTIFICATES, OR OTHER
32 APPROVALS.

33 (3) IN SOLICITING AND ENTERING INTO CONTRACTS FOR THE
34 TRANSMISSION OR STORAGE OF ELECTRICITY, THE AUTHORITY AND ANY
35 PERSON LEASING OR OPERATING ELIGIBLE FACILITIES FINANCED OR
36 ACQUIRED BY THE AUTHORITY SHALL, IF PRACTICABLE, GIVE PRIORITY TO
37 THOSE CONTRACTS THAT WILL TRANSMIT OR STORE ELECTRICITY TO BE
38 SOLD AND CONSUMED IN COLORADO.

39 (4) NEITHER THE AUTHORITY NOR ANY ELIGIBLE FACILITIES
40 ACQUIRED BY THE AUTHORITY ARE SUBJECT TO THE SUPERVISION,
41 REGULATION, CONTROL, OR JURISDICTION OF THE COMMISSION; EXCEPT
42 THAT NOTHING IN THIS SECTION ALLOWS AN ELECTRIC UTILITY, WITHOUT
43 THE APPROVAL OF THE COMMISSION, TO MAKE ANY FILING WITH THE FERC
44 REQUESTING INCLUSION OF THE COST OF USING ELIGIBLE FACILITIES IN ITS
45 RATES. IN DETERMINING WHETHER TO APPROVE ANY SUCH FILING, THE

1 COMMISSION SHALL MAKE A FINDING AS TO WHETHER THE INCLUSION OF
2 THESE COSTS WOULD BE CONSISTENT WITH THE GOALS AND PURPOSES SET
3 FORTH IN THIS ARTICLE 42.

4 (5) IN EXERCISING ITS POWERS AND DUTIES, THE AUTHORITY SHALL
5 NOT OWN OR CONTROL FACILITIES UNLESS:

6 (a) THE FACILITIES ARE LEASED TO OR HELD FOR LEASE OR SALE TO
7 AN ELECTRIC UTILITY OR ANOTHER PERSON APPROVED BY THE
8 COMMISSION;

9 (b) THE OPERATION, MAINTENANCE, AND USE OF THE FACILITIES
10 ARE VESTED BY LEASE OR OTHER CONTRACT IN AN ELECTRIC UTILITY OR
11 ANOTHER PERSON APPROVED BY THE COMMISSION;

12 (c) THE FACILITIES ARE OWNED OR CONTROLLED FOR A PERIOD OF
13 NOT MORE THAN ONE HUNDRED EIGHTY DAYS AFTER TERMINATION OF A
14 LEASE OR CONTRACT DESCRIBED IN SUBSECTION (5)(a) OR (5)(b) OF THIS
15 SECTION OR AFTER THE AUTHORITY GAINS POSSESSION OF THE FACILITIES
16 FOLLOWING A BREACH OF SUCH A LEASE OR CONTRACT OR AS A RESULT OF
17 BANKRUPTCY PROCEEDINGS; OR

18 (d) THE FACILITIES DO NOT AFFECT IN-STATE RETAIL RATES OR
19 ELECTRIC SERVICE RELIABILITY.

20 (6) (a) AN ELECTRIC UTILITY THAT IS SUBJECT TO RATE
21 REGULATION BY THE COMMISSION MAY RECOVER THE CAPITAL COST OF A
22 PROJECT UNDERTAKEN PURSUANT TO THIS ARTICLE 42 FROM ITS RETAIL
23 CUSTOMERS ONLY IF THE PROJECT HAS RECEIVED A CERTIFICATE OF PUBLIC
24 CONVENIENCE AND NECESSITY FROM THE COMMISSION. AN ELECTRIC
25 UTILITY THAT IS A MUNICIPALLY OWNED UTILITY EXEMPT FROM
26 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
27 PROJECT HAS BEEN APPROVED BY THE GOVERNING BODY OF THE
28 MUNICIPALITY. A COOPERATIVE ELECTRIC ASSOCIATION EXEMPT FROM
29 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
30 PROJECT HAS BEEN APPROVED BY THE BOARD OF DIRECTORS OF THE
31 COOPERATIVE ELECTRIC ASSOCIATION.

32 (b) COSTS ASSOCIATED WITH A PROJECT UNDERTAKEN PURSUANT
33 TO THIS ARTICLE 42 ARE NOT RECOVERABLE FROM RETAIL UTILITY
34 CUSTOMERS EXCEPT TO THE EXTENT THE COSTS ARE PRUDENTLY
35 INCURRED AND THE PROJECT IS USED AND USEFUL IN SERVING THOSE
36 CUSTOMERS.

37 (7) THE AUTHORITY MAY SELL ANY OF ITS FACILITIES TO A
38 COLORADO PUBLIC UTILITY.

39 (8) THE AUTHORITY MAY PETITION THE FERC FOR A
40 CLARIFICATION OF THE EXCLUSIVE OR CONCURRENT JURISDICTION OF THE
41 FERC OVER ANY MATTER CONSIDERED OR ACTION TAKEN BY THE
42 AUTHORITY UNDER THIS ARTICLE 42. THE GENERAL ASSEMBLY DECLARES
43 ITS INTENT THAT THE AUTHORITY AND THE COMMISSION BE ABLE TO
44 CARRY OUT THEIR POWERS AND DUTIES TO THE BROADEST EXTENT
45 POSSIBLE, CONSISTENT WITH PRINCIPLES OF FEDERALISM, TO ACHIEVE THE

1 GOALS AND EFFECTUATE THE PURPOSES OF THIS ARTICLE 42.
2 **40-42-105. Electric transmission bonds - conditions of issuance**
3 **- electric transmission bonding fund creation - auditor examination**
4 **- payment from bonding fund - exemption from taxation.** (1) THE
5 AUTHORITY MAY ISSUE AND SELL ELECTRIC TRANSMISSION BONDS,
6 PAYABLE SOLELY FROM THE ELECTRIC TRANSMISSION BONDING FUND, IN
7 COMPLIANCE WITH THIS ARTICLE 42 FOR THE PURPOSE OF ENTERING INTO
8 A PROJECT WHEN THE AUTHORITY DETERMINES THAT THE PROJECT IS
9 NEEDED. THIS ARTICLE 42 IS, WITHOUT REFERENCE TO ANY OTHER LAW,
10 FULL AUTHORITY FOR THE ISSUANCE AND SALE OF BONDS. BONDS HAVE
11 ALL THE QUALITIES OF INVESTMENT SECURITIES UNDER THE "UNIFORM
12 COMMERCIAL CODE", TITLE 4, AND SHALL NOT BE DEEMED INVALID FOR
13 ANY IRREGULARITY OR DEFECT OR BE CONTESTABLE IN THE HANDS OF
14 BONA FIDE PURCHASERS OR HOLDERS OF THE BONDS FOR VALUE.
15 (2) (a) BONDS MAY BE EXECUTED AND DELIVERED BY THE
16 AUTHORITY AT SUCH TIMES; MAY BE IN SUCH FORM AND DENOMINATIONS
17 AND INCLUDE SUCH TERMS AND MATURITIES; MAY BE SUBJECT TO
18 OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR
19 WITHOUT A PREMIUM; MAY BE IN FULLY REGISTERED FORM OR BEARER
20 FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH; MAY BEAR
21 SUCH CONVERSION PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS
22 AND AT SUCH TIMES NOT EXCEEDING THIRTY YEARS; MAY BE PAYABLE AT
23 SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE STATE; MAY
24 BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE
25 FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS
26 DETERMINED BY THE AUTHORITY OR ITS AGENTS, WITHOUT REGARD TO
27 ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE
28 STATE; MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR
29 THE AUTHORITY; MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED
30 BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR
31 MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL
32 SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER
33 OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME; MAY BE
34 IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
35 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF
36 THE AUTHORITY; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
37 WITH THIS ARTICLE 42, ALL AS PROVIDED IN THE RESOLUTION OF THE
38 AUTHORITY UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR
39 AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY
40 COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.
41 (b) (I) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH
42 PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED
43 BY THE BOARD, AND THE BOARD MAY PAY ALL FEES, EXPENSES, AND
44 COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
45 CONNECTION WITH THE SALE OF BONDS.

1 (II) THE BOARD MAY DELEGATE TO AN OFFICER OR AGENT OF THE
2 BOARD THE POWER TO:
3 (A) FIX THE DATE OF SALE OF BONDS;
4 (B) RECEIVE BIDS OR PROPOSALS;
5 (C) AWARD AND SELL BONDS;
6 (D) FIX INTEREST RATES; AND
7 (E) TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER
8 BONDS.
9 (III) THE AUTHORITY MAY REFUND ANY OUTSTANDING BONDS
10 PURSUANT TO ARTICLE 56 OF TITLE 11.
11 (IV) ALL BONDS AND ANY INTEREST COUPONS APPLICABLE TO THE
12 BONDS ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.
13 (c) BONDS ARE EXEMPT FROM TAXATION BY THE STATE AND ANY
14 COUNTY, CITY AND COUNTY, MUNICIPALITY, OR OTHER POLITICAL
15 SUBDIVISION OF THE STATE.
16 (d) PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY
17 INVEST PUBLIC MONEY IN BONDS SO LONG AS THE BONDS SATISFY THE
18 INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF
19 TITLE 24.
20 (e) NEITHER A MEMBER OF THE BOARD NOR AN EMPLOYEE OF THE
21 AUTHORITY NOR ANY PERSON EXECUTING BONDS IS LIABLE PERSONALLY
22 ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY BY REASON OF
23 THE ISSUANCE OF THE BONDS.
24 (3) (a) (I) THE ELECTRIC TRANSMISSION BONDING FUND IS
25 CREATED IN THE AUTHORITY. THE BONDING FUND CONSISTS OF:
26 (A) REVENUE RECEIVED BY THE AUTHORITY FROM OPERATING OR
27 LEASING ELIGIBLE FACILITIES;
28 (B) FEES AND SERVICE CHARGES COLLECTED;
29 (C) BOND PROCEEDS;
30 (D) MONEY FROM PAYMENTS OF PRINCIPAL AND INTEREST ON
31 LOANS IF THE AUTHORITY HAS PROVIDED FINANCING FOR ELIGIBLE
32 FACILITIES; AND
33 (E) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
34 INVESTMENT OF MONEY IN THE BONDING FUND.
35 (II) THE AUTHORITY MAY CREATE SEPARATE ACCOUNTS WITHIN
36 THE BONDING FUND IN CONNECTION WITH ANY ISSUANCE OF BONDS AND
37 MAY DEPOSIT IN THE SEPARATE ACCOUNTS REVENUE RECEIVED BY THE
38 AUTHORITY FROM THE FINANCING OR LEASING OF ELIGIBLE FACILITIES.
39 ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A
40 TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE
41 ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
42 INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO
43 THE ACCOUNT.
44 (III) BALANCES IN THE BONDING FUND AT THE END OF ANY STATE
45 FISCAL YEAR REMAIN IN THE BONDING FUND, EXCEPT AS OTHERWISE

1 PROVIDED IN THIS SECTION.

2 (b) (I) MONEY IN THE BONDING FUND SHALL BE DEPOSITED IN A
3 BANK DESIGNATED BY THE AUTHORITY IN AN ACCOUNT OR ACCOUNTS AS
4 THE AUTHORITY MAY ESTABLISH. MONEY IN ACCOUNTS SHALL BE
5 WITHDRAWN ON THE ORDER OF PERSONS THE AUTHORITY MAY AUTHORIZE.
6 ALL DEPOSITS OF MONEY SHALL BE SECURED IN SUCH MANNER AS THE
7 AUTHORITY MAY DETERMINE.

8 (II) ALL FUNDS AND ACTIVITIES OF THE AUTHORITY, INCLUDING ITS
9 RECEIPTS, DISBURSEMENTS, CONTRACTS, LEASES, FUNDS, INVESTMENTS,
10 AND ANY OTHER RECORDS AND PAPERS RELATING TO ITS FINANCIAL
11 STANDING, ARE SUBJECT TO ANNUAL AUDIT, AT THE AUTHORITY'S
12 EXPENSE, IN ACCORDANCE WITH SECTION 29-1-603.

13 (c) MONEY IN THE BONDING FUND IS PLEDGED FOR THE PAYMENT
14 OF PRINCIPAL AND INTEREST ON BONDS ISSUED PURSUANT TO THIS ARTICLE
15 42. MONEY IN ANY SEPARATE ACCOUNT MAY BE PLEDGED SOLELY TO
16 PAYMENT OF THE BONDS FOR WHICH THE SEPARATE ACCOUNT WAS
17 CREATED. THE AUTHORITY MAY EXPEND MONEY IN THE BONDING FUND OR
18 A SEPARATE ACCOUNT FOR THE PURPOSE OF PAYING DEBT SERVICE,
19 INCLUDING REDEMPTION PREMIUMS, ON BONDS AND EXPENSES INCURRED
20 IN THE ISSUANCE, PAYMENT, AND ADMINISTRATION OF THE BONDS.

21 (4) TWICE ANNUALLY THE AUTHORITY SHALL ESTIMATE THE
22 AMOUNTS NEEDED TO MAKE DEBT SERVICE AND OTHER PAYMENTS ON
23 BONDS DURING THE NEXT TWELVE MONTHS FROM THE BONDING FUND AND
24 FROM ANY SEPARATE ACCOUNT CREATED IN THE BONDING FUND PLUS THE
25 AMOUNT THAT MAY BE NEEDED FOR ANY REQUIRED RESERVES OR OTHER
26 REQUIREMENTS AS MAY BE SET FORTH IN THE TRUST INDENTURE RELATED
27 TO THE BONDS. THE AUTHORITY SHALL TRANSFER TO THE ELECTRIC
28 TRANSMISSION AUTHORITY OPERATIONAL FUND ANY BALANCE IN THE
29 BONDING FUND OR ANY SEPARATE ACCOUNT CREATED IN THE BONDING
30 FUND ABOVE THE ESTIMATED AMOUNTS. PAYMENTS FOR ADMINISTRATIVE
31 COSTS SHALL BE DEPOSITED IN THE OPERATIONAL FUND.

32 (5) BONDS ARE PAYABLE SOLELY FROM THE BONDING FUND OR
33 FROM ANY SEPARATE ACCOUNT CREATED WITHIN THE BONDING FUND OR,
34 WITH THE APPROVAL OF THE BONDHOLDERS, SUCH OTHER SPECIAL FUNDS
35 AS MAY BE PROVIDED BY LAW, AND THE BONDS DO NOT CREATE AN
36 OBLIGATION OR INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF
37 ANY CONSTITUTIONAL PROVISION OR LAW. A BREACH OF A CONTRACTUAL
38 OBLIGATION INCURRED PURSUANT TO THIS ARTICLE 42 DOES NOT IMPOSE
39 A PECUNIARY LIABILITY OR A CHARGE UPON THE GENERAL CREDIT OR
40 TAXING POWER OF THE STATE.

41 (6) THE STATE PLEDGES THAT THE BONDING FUND, INCLUDING ANY
42 SEPARATE ACCOUNT WITHIN THE BONDING FUND, SHALL BE USED ONLY
43 FOR THE PURPOSES SPECIFIED IN THIS SECTION AND IS PLEDGED FIRST TO
44 REPAY BONDS ISSUED PURSUANT TO THIS ARTICLE 42. THE STATE FURTHER
45 PLEDGES THAT ANY LAW REQUIRING THE DEPOSIT OF REVENUE IN THE

1 BONDING FUND OR AUTHORIZING EXPENDITURES FROM THE BONDING FUND
2 SHALL NOT BE AMENDED OR REPEALED OR OTHERWISE MODIFIED SO AS TO
3 IMPAIR THE BONDS TO WHICH THE BONDING FUND IS DEDICATED AS
4 PROVIDED IN THIS SECTION.

5 **40-42-106. Electric transmission authority operational fund -**
6 **creation.** THE ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND
7 IS CREATED IN THE AUTHORITY. THE OPERATIONAL FUND CONSISTS OF
8 MONEY TRANSFERRED TO THE OPERATIONAL FUND PURSUANT TO SECTION
9 40-42-105 (4), ANY OTHER MONEY THAT THE AUTHORITY MAY TRANSFER
10 TO THE OPERATIONAL FUND, AND INTEREST AND INCOME DERIVED FROM
11 THE DEPOSIT AND INVESTMENT OF MONEY IN THE OPERATIONAL FUND. THE
12 AUTHORITY MAY EXPEND MONEY FROM THE OPERATIONAL FUND FOR THE
13 PURPOSE OF CARRYING OUT THIS ARTICLE 42, AND THE AUTHORITY MAY
14 ESTABLISH PROCEDURES TO ADMINISTER THE OPERATIONAL FUND IN
15 ACCORDANCE WITH THIS ARTICLE 42 AND ANY OTHER APPLICABLE
16 PROVISION OF STATE LAW.

17 **40-42-107. Report to general assembly.** COMMENCING IN 2022,
18 THE AUTHORITY SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE
19 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
20 REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE
21 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, NOT LATER THAN
22 DECEMBER 1 OF EACH YEAR. THE REPORT SHALL SET FORTH A COMPLETE
23 OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF
24 THE AUTHORITY FOR THE PREVIOUS STATE FISCAL YEAR.
25 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO
26 SUBMIT THE REPORT CONTINUES INDEFINITELY.

27 **SECTION 5.** In Colorado Revised Statutes, **add** 2-3-126 as
28 follows:

29 **2-3-126. Performance audits of Colorado electric transmission**
30 **authority.** AT THE DISCRETION OF THE LEGISLATIVE AUDIT COMMITTEE,
31 THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A
32 PERFORMANCE AUDIT OF THE COLORADO ELECTRIC TRANSMISSION
33 AUTHORITY CREATED IN ARTICLE 42 OF TITLE 40. THE STATE AUDITOR
34 SHALL PREPARE A REPORT AND RECOMMENDATIONS ON EACH AUDIT
35 CONDUCTED AND SHALL PRESENT THE REPORT AND RECOMMENDATIONS
36 TO THE COMMITTEE. THE STATE AUDITOR SHALL PAY THE COSTS OF ANY
37 AUDIT CONDUCTED PURSUANT TO THIS SECTION.

38 **SECTION 6.** In Colorado Revised Statutes, 24-65.1-501, **add**
39 (2)(d) as follows:

40 **24-65.1-501. Permit for development in area of state interest**
41 **or to conduct an activity of state interest required.** (2) (d) IF THE
42 DEVELOPMENT OR ACTIVITY INVOLVES THE CONSTRUCTION OR EXPANSION
43 OF TRANSMISSION FACILITIES FOR WHICH THE APPLICANT HAS SOUGHT A
44 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE PUBLIC
45 UTILITIES COMMISSION PURSUANT TO SECTION 40-2-126, THE LOCAL

1 GOVERNMENT SHALL APPROVE OR DENY ISSUANCE OF THE PERMIT WITHIN
2 ONE HUNDRED EIGHTY DAYS AFTER THE APPLICATION IS DEEMED
3 COMPLETE AND PUBLIC NOTICE OF THE APPLICATION IS GIVEN. IF THE
4 LOCAL GOVERNMENT DOES NOT DENY ISSUANCE OF THE PERMIT WITHIN
5 THAT PERIOD, THE APPLICATION IS DEEMED APPROVED.

6 **SECTION 7.** In Colorado Revised Statutes, 24-77-102, **amend**
7 the introductory portion; and **add** (15)(b)(XIX) as follows:

8 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
9 the context otherwise requires:

10 (15) (b) "Special purpose authority" includes, but is not limited to:
11 (XIX) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
12 CREATED IN SECTION 40-42-103 (1).

13 **SECTION 8.** In Colorado Revised Statutes, 38-1-202, **amend**
14 (1)(f) introductory portion, (1)(f)(XXXIX), and (1)(f)(XL); and **add**
15 (1)(f)(XLI) as follows:

16 **38-1-202. Governmental entities, corporations, and persons**
17 **authorized to use eminent domain.** (1) The following governmental
18 entities, types of governmental entities, and public corporations, in
19 accordance with all procedural and other requirements specified in this
20 article 1 and articles 2 to 7 of this title 38 and to the extent and within any
21 time frame specified in the applicable authorizing statute, may exercise
22 the power of eminent domain:

23 (f) The following types of single purpose districts, special
24 districts, authorities, boards, commissions, and other governmental
25 entities that serve limited governmental purposes or that may exercise
26 eminent domain for limited purposes: ~~on behalf of a county, city and~~
27 ~~county, city, or town:~~

28 (XXXIX) A regional transportation authority created pursuant to
29 section 43-4-603 ~~C.R.S.~~; as authorized in section 43-4-604 (1)(a)(IV);
30 ~~C.R.S.~~; and

31 (XL) The Colorado aeronautical board created in section
32 43-10-104 ~~C.R.S.~~; as authorized in section 43-10-106 (1); ~~C.R.S.~~ AND

33 (XLI) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
34 CREATED IN SECTION 40-42-103 (1) AS AUTHORIZED IN SECTION 40-42-104
35 (1)(q).

36 **SECTION 9.** In Colorado Revised Statutes, 38-5-104, **amend** (1)
37 as follows:

38 **38-5-104. Right-of-way across private lands.** (1) ~~Such~~ A
39 telegraph, telephone, electric light, power, gas, or pipeline company, AN
40 ELECTRIC TRANSMISSION AUTHORITY, or ~~such~~ A city or town ~~shall be~~ IS
41 entitled to the right-of-way over or under the land, property, privileges,
42 rights-of-way, and easements of other persons and corporations and to the
43 right to erect its poles, wires, pipes, regulator stations, substations,
44 systems, and offices upon making just compensation therefor in the
45 manner provided by law. ~~WHEN A RIGHT-OF-WAY IS TAKEN UNDER THIS~~

1 SECTION FOR AN INTERSTATE ELECTRIC TRANSMISSION LINE, THE COURT
2 SHALL EVALUATE PUBLIC PURPOSE IN LIGHT OF THE TRANSMISSION SYSTEM
3 AS A WHOLE, INCLUDING PUBLIC USE AND BENEFITS OCCURRING EITHER
4 WITHIN COLORADO OR AT A REGIONAL LEVEL. The rights granted by this
5 section and section 38-5-105 to such electric light, power, gas, or pipeline
6 companies or to such cities and towns shall not extend to the taking of
7 any portion of the right-of-way of a railroad company, except to the
8 extent of acquiring any necessary easement to cross the same or to serve
9 such railroad company with electric light, power, or gas service. The
10 rights granted by this section and section 38-5-105 to telegraph or
11 telephone companies shall not extend to the taking of any portion of the
12 right-of-way of a railroad company, except to the extent of acquiring any
13 easement which does not materially interfere with the existing use by the
14 railroad company, or except to the extent of acquiring any necessary
15 easement to cross the same or to serve such railroad company with
16 telegraph or telephone service.

17 **SECTION 10.** In Colorado Revised Statutes, 40-2-114, **amend**
18 (2) as follows:

19 **40-2-114. Disposition of fees collected - telecommunications**
20 **utility fund - fixed utility fund.** (2) (a) ~~Moneys~~ MONEY in the funds
21 created in subsection (1) of this section shall be expended only to defray
22 the full amount determined by the general assembly for:

23 (I) The administrative expenses of the commission for the
24 supervision and regulation of the public utilities paying the fees; ~~and for~~

25 (II) The financing of the office of consumer counsel created in
26 article 6.5 of this ~~title~~ TITLE 40; AND

27 (III) WITH REGARD ONLY TO EXPENDITURES FROM THE PUBLIC
28 UTILITIES COMMISSION FIXED UTILITY FUND CREATED IN SUBSECTION
29 (1)(b) OF THIS SECTION, THE ADMINISTRATIVE EXPENSES, NOT TO EXCEED
30 FIVE HUNDRED THOUSAND DOLLARS ANNUALLY, INCURRED BY THE
31 COLORADO ELECTRIC TRANSMISSION AUTHORITY IN CARRYING OUT ITS
32 DUTIES UNDER ARTICLE 42 OF THIS TITLE 40. THE COLORADO ELECTRIC
33 TRANSMISSION AUTHORITY SHALL REMIT TO THE FIXED UTILITY FUND ANY
34 AMOUNTS IT RECEIVES IN EXCESS OF ITS ACTUAL ADMINISTRATIVE
35 EXPENSES PLUS A FIFTEEN PERCENT RESERVE MARGIN.

36 (b) The state treasurer shall retain any unexpended balance
37 remaining in either fund at the end of any fiscal year to defray the
38 administrative expenses of the commission during subsequent fiscal
39 years, and the executive director of the department of revenue shall take
40 any such unexpended balance into account when computing the
41 percentage upon which fees for the ensuing fiscal year will be based.

42 **SECTION 11. Applicability.** This act applies to conduct
43 occurring on or after the effective date of this act.

44 **SECTION 12. Safety clause.** The general assembly hereby finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety."

3 Page 1, lines 105 and 106, strike "REGIONAL TRANSMISSION
4 ORGANIZATIONS," and substitute "ORGANIZED WHOLESALE MARKETS,".

** *** ** *** **