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MEMORANDUM

April 20, 2004

TO: Robin Hubbard and Susan LeFever

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2003-2004 #147, concerning renewable energy standards.

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments to you regarding your proposed amendment, a copy of which is attached.

The purpose of this statutory requirement of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in drafting the language of their proposal and to make the public aware of the contents of the proposal. Our first objective is to be sure we understand your intent and objective in proposing the amendment. We hope that the statements and questions in this memorandum will provide a basis for discussion and understanding of the proposal.

Special note

An earlier version of this amendment was the subject of a previous memorandum (concerning proposed initiated measure 2003-2004 #145), also dated April 20, 2004. The comments and questions raised in this memorandum will be limited so as not to duplicate comments and questions that were addressed at the earlier hearing on this amendment.

Purposes

The purposes of the new and revised provisions of the proposed amendment appear to be as follows:

1. To simplify the schedule of implementation so that energy generated from renewables represents 5% by 2010 and 10% by 2015 of the energy portfolio of each utility serving 40,000 or more retail

customers in Colorado;

2. To require that, of these specified percentages, 4% is derived from customer-sited facilities; and
3. To delegate rulemaking authority to the PUC for purposes of implementation, incentives, and penalties for noncompliance.

Comments and Questions

The form and substance of the new and revised provisions of the proposed amendment raise the following comments and questions:

1. The first sentence of the measure allows utilities to "acquire" the specified percentages of retail energy sales, yet the third sentence states that "[a]ll such resources must be *built*" after a specified date. (Emphasis added.) Is it the proponents' intent that none of the retail energy sales counted toward meeting the standards may be purchased from other utilities?
2. The 4% that must be derived from customer-sited facilities appears to apply equally to both the 5% standard applied from years 2010 through 2014 and the 10% standard applied in 2015 and thereafter. Is it correct to assume that four-fifths (4% out of a total of 5%) of renewable energy sales during the period 2010 through 2014 must come from customer-sited generation facilities? If not, on what basis is the 4% calculated?