

First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 07-0521.01 Duane Gall

SENATE BILL 07-100

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SENATE SPONSORSHIP

**Fitz-Gerald**, Kester, Bacon, Boyd, Gordon, Groff, Hagedorn, Isgar, Keller, Morse, Penry, Romer, Sandoval, Schwartz, Shaffer, Takis, Tapia, Tochtrop, Tupa, Veiga, Williams, and Windels

HOUSE SPONSORSHIP

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Senate Committees

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A BILL FOR AN ACT

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

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires electric utilities to undertake biennial reviews to designate areas of the state in which transmission capacity lags behind

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

generating capacity. For such areas, requires the utilities to submit proposed plans for the development of additional transmission facilities and directs the public utilities commission (PUC) to grant or deny any necessary certificates for such development within 180 days.

Allows the utilities to recover costs during construction of new or expanded transmission facilities through a rate adjustment clause so long as the costs are prudently incurred and consistent with the PUC's prior findings, orders, and rate determinations.

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

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

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

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

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

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

15 **40-2-126. Transmission facilities - biennial review - energy**  
16 **resource zones - definitions - plans - approval - cost recovery.** (1) AS  
17 USED IN THIS SECTION, "ENERGY RESOURCE ZONE" MEANS A GEOGRAPHIC  
18 AREA IN WHICH TRANSMISSION CONSTRAINTS HINDER THE DELIVERY OF  
19 ELECTRICITY TO COLORADO CONSUMERS, THE DEVELOPMENT OF NEW  
20 ELECTRIC GENERATION FACILITIES TO SERVE COLORADO CONSUMERS, OR  
21 BOTH.

1 (2) ON OR BEFORE OCTOBER 31 OF EACH ODD-NUMBERED YEAR,  
2 COMMENCING IN 2007, EACH COLORADO ELECTRIC UTILITY SHALL:

3 (a) DESIGNATE ENERGY RESOURCE ZONES;

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

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

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

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

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

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

27 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ANY

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

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

10 **40-5-101. New construction - extension - compliance with local**  
11 **zoning rules.** (4) (a) A PUBLIC UTILITY SHALL BE ENTITLED TO RECOVER,  
12 THROUGH A SEPARATE RATE ADJUSTMENT CLAUSE, THE COSTS THAT IT  
13 PRUDENTLY INCURS IN PLANNING, DEVELOPING, AND COMPLETING THE  
14 CONSTRUCTION OR EXPANSION OF TRANSMISSION FACILITIES FOR WHICH  
15 THE UTILITY HAS BEEN GRANTED A CERTIFICATE OF PUBLIC CONVENIENCE  
16 AND NECESSITY OR FOR WHICH THE COMMISSION HAS DETERMINED THAT  
17 NO CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS REQUIRED.  
18 THE TRANSMISSION RATE ADJUSTMENT CLAUSE SHALL BE SUBJECT TO  
19 ANNUAL CHANGES, WHICH SHALL BE EFFECTIVE ON JANUARY 1 OF EACH  
20 YEAR.

21 (b) TO PROVIDE ADDITIONAL ENCOURAGEMENT TO UTILITIES TO  
22 PURSUE THE CONSTRUCTION AND EXPANSION OF TRANSMISSION  
23 FACILITIES, THE COMMISSION SHALL APPROVE CURRENT RECOVERY BY THE  
24 UTILITY THROUGH THE ANNUAL RATE ADJUSTMENT CLAUSE OF THE  
25 UTILITY'S WEIGHTED AVERAGE COST OF CAPITAL, INCLUDING ITS MOST  
26 RECENTLY AUTHORIZED RATE OF RETURN ON EQUITY, ON THE TOTAL  
27 BALANCE OF CONSTRUCTION WORK IN PROGRESS RELATED TO SUCH

1 TRANSMISSION FACILITIES AS OF THE END OF THE IMMEDIATELY  
2 PRECEDING YEAR. THE RATE ADJUSTMENT CLAUSE SHALL BE REDUCED TO  
3 THE EXTENT THAT THE PRUDENTLY INCURRED COSTS BEING RECOVERED  
4 THROUGH THE ADJUSTMENT CLAUSE HAVE BEEN INCLUDED IN THE PUBLIC  
5 UTILITY'S BASE RATES AS A RESULT OF THE COMMISSION'S FINAL ORDER IN  
6 A RATE CASE.

7       **SECTION 4. Effective date.** This act shall take effect at 12:01  
8 a.m. on the day following the expiration of the ninety-day period after  
9 final adjournment of the general assembly that is allowed for submitting  
10 a referendum petition pursuant to article V, section 1 (3) of the state  
11 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);  
12 except that, if a referendum petition is filed against this act or an item,  
13 section, or part of this act within such period, then the act, item, section,  
14 or part, if approved by the people, shall take effect on the date of the  
15 official declaration of the vote thereon by proclamation of the governor.