

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

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**

**McFadyen**,

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**Senate Committees**

Agriculture, Natural Resources & Energy

**House Committees**

Transportation & Energy

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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.*

HOUSE  
2nd Reading Unamended  
March 2, 2007

SENATE  
3rd Reading Unamended  
February 20, 2007

SENATE  
Amended 2nd Reading  
February 16, 2007

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 SUBJECT TO  
3           RATE REGULATION BY THE COMMISSION SHALL:

4           (a) DESIGNATE ENERGY RESOURCE ZONES;

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

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

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

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

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

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

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

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

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

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

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

8 **SECTION 4. Safety clause. The general assembly hereby finds,**  
9 **determines, and declares that this act is necessary for the immediate**  
10 **preservation of the public peace, health, and safety.**