

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0521.01 Duane Gall

SENATE BILL 07-100

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,

Senate Committees

Agriculture, Natural Resources & Energy

House Committees

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.**

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.

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