A BILL FOR AN ACT

CONCERNING A REQUIREMENT THAT ELECTRIC UTILITIES EMPLOY LEAST-COST PLANNING FOR NEW RESOURCE ACQUISITIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill repeals recent directives requiring the public utilities commission (PUC) to give special consideration to a number of factors and specific technologies when considering applications by electric utilities for approval of investments in generation facilities. The bill restates the priority of minimizing costs to ratepayers and directs the PUC
to adopt rules reflecting the legal standards that prevailed under prior law.

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

SECTION 1. 40-2-123, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

40-2-123. Commission consideration of new energy technologies - least-cost planning. (1) Except as otherwise provided in subsection (2) of this section, the commission shall give the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases. The commission shall consider utility investments in energy efficiency, and in resource acquisitions necessary to meet the renewable energy portfolio standards set forth in section 40-2-124, to be an acceptable use of ratepayer moneys so long as such investments comply with the commission's least-cost resource planning rules adopted pursuant to subsection (2) of this section.

(2) Notwithstanding any provision of law to the contrary, for resource planning purposes, the commission shall develop and implement least-cost planning rules requiring jurisdictional utilities to use a least-cost portfolio under a net present value revenue requirement over the expected life of the generation assets, with the additional requirements that:
(a) The planning rules must be neutral with regard to fuel type and resource technology;

(b) Costs that are not identified as those that will be actually incurred by the electric utility may not be included in the revenue requirement analyses;

(c) Fuel supply costs may not be modified beyond the known actual costs or best estimated costs. Best estimated costs may not be modified to reflect any external factors not definitively required by federal or state law.

(d) For resources owned by the electric utility, the costs for transmission facilities required to deliver energy from the proposed resource to the connection with the transmission system of the electric utility must be included in the revenue requirements analyses; and

(e) For resources purchased from other suppliers, the costs incurred for delivery to the connection owned by the electric utility must be borne by the selling party and included in the price of delivered power and energy.

SECTION 2. Repeal. 24-38.5-102 (1) (n), Colorado Revised Statutes, is repealed as follows:

24-38.5-102. Governor's energy office - duties and powers.

(1) The governor's energy office shall:

(n) Provide public utilities with reasonable assistance, if requested, in seeking and obtaining support and sponsorship for an IGCC project as defined in section 40-2-123 (2) (b) (f), C.R.S., and manage and distribute to the utility some or all of any funds provided by the state or by the United States government to the state for purposes of study or
development of an IGCC project as specified in section 40-2-123 (2) (j); C.R.S.;

SECTION 3. Repeal. 40-9.7-103 (5) (g), Colorado Revised Statutes, is repealed as follows:

40-9.7-103. Definitions. As used in this article, unless the context otherwise requires:

(5) "Clean energy" means any of the following fuels that are themselves manufactured or synthesized and energy derived from any of the following:

(g) The IGCC project defined in section 40-2-123 (2) (b) (I).

SECTION 4. Repeal. 40-9.7-106 (1) (c) (I) (B), Colorado Revised Statutes, is repealed as follows:

40-9.7-106. Authority - duties and powers. (1) The authority shall:

(c) (I) Convene qualified task forces to develop proposed recommendations for its consideration, amendment, and adoption and thereafter itself adopt official recommendations for the general assembly regarding the types of clean energy projects that the authority should finance, refinance, or otherwise support. The authority shall convene the task forces as soon as the authority determines that it has received sufficient moneys from gifts, grants, donations, or project fees to adequately fund the activities of the task forces. The task forces shall develop and the authority shall adopt final recommendations as to:

(B) Whether projects that involve integrated gasification combined cycle generation facilities or IGCC facilities, as defined in section 40-2-123 (2) (b) (II), other than the IGCC project described in section 40-2-123 (2) (b) (I) that is specifically defined as clean energy
pursuant to section 40-9.7-103 (5) (g), or other clean coal technologies
that have the potential for substantial sequestration of carbon emissions
should be considered clean energy projects that the authority may finance,
refinance, or otherwise support, and, if so, the nature and extent of any
restrictions, including, but not limited to, specific carbon dioxide
emissions sequestration requirements, that such projects should satisfy as
a prerequisite to authority financing, refinancing, or other support; and

SECTION 5. Act subject to petition - effective date. This act
shall take effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly (August
10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part shall not take effect
unless approved by the people at the general election to be held in
November 2012 and shall take effect on the date of the official
declaration of the vote thereon by the governor.