

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 12-0272

**Date:** February 21, 2012

**Prime Sponsor(s):** Rep. Tyler

**Bill Status:** House SVMA

**Fiscal Analyst:** Marc Carey (303-866-4102)

**TITLE:** CONCERNING A RIGHT TO PARTICIPATE IN PROCEEDINGS BEFORE THE PUBLIC UTILITIES COMMISSION BY CUSTOMERS OF REGULATED BUSINESSES.

<b>Fiscal Impact Summary</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>State Revenue</b>		
General Fund	at least \$541	at least \$541
Cash Funds		
Fixed Utility Fund	at least 18,041	at least 18,041
<b>State Expenditures</b>		
Cash Funds		
Fixed Utility Fund	at least 17,500	at least 17,500
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

This bill clarifies that customers of a business regulated by the Colorado Public Utilities Commission (PUC) qualify as persons who "will be interested in or affected by" the PUC's order, and thus have standing to intervene in a PUC administrative hearing.

**Background**

Under current law, the PUC, the Office of Consumer Counsel, the Governor's Energy Office, transportation carriers, applicants and complaint respondents have the right of intervention in PUC hearings. All other *pro se* (self-represent) interventions are permissive by rule allowed at the PUC's discretion. While motions to intervene are not often denied, such motions have been denied already twice this year due to lack of sufficient basis. This bill changes *pro se* intervention from permissive under rule to a statutory right for all customers of regulated utilities. For illustrative purposes, of the two regulated electric utilities operating in Colorado, Xcel Energy has 1.3 million customers in Colorado and Black Hills Energy has 93,000 customers. Similarly, in the telecom sector, CenturyLink has approximately 1.2 million customers and Comcast has 400,000 customers in Colorado. All of these customers would have the statutory right to intervene in PUC proceedings under this bill.

## **State Revenue**

In FY 2012-13 and thereafter, this bill is expected to increase state revenue by *at least* \$18,041, of which \$17,500 will be credited to the Fixed Utility Fund (FUF) and \$541 to the General Fund. The administrative costs incurred by the PUC as a result of this bill and discussed in the State Expenditures section will be paid from the FUF.

The FUF receives its revenues from an annual fee assessment based on a statutory formula contained in Section 40-2-112, C.R.S. that utilizes each utility's gross operating revenue derived from intrastate utility business. Whenever additional expenses are incurred against the FUF, this assessment must be raised to increase revenues to recover direct and indirect costs, plus pay an additional three percent to the General Fund. Thus, cash fund revenues will have to be increased sufficiently to cover the expenses discussed in the State Expenditures section plus the costs described in the Expenditures Not Included section, plus credit three percent to the General Fund.

## **State Expenditures**

*Department of Regulatory Agencies, Public Utilities Commission (PUC).* The PUC will incur additional administrative costs for each additional *pro se* intervener that participates in each hearing. In 2011, utilities filed 638 tariff changes, 429 applications, 83 petitions and 14 formal complaints with the PUC. While each of these dockets could potentially involve a hearing, most will not. According to the PUC, there were approximately 80 to 100 hearings in 2011. PUC hearings occur only when there are interveners. Thus, the PUC will incur costs if additional *pro se* interveners participate in hearings, or, if new hearings must now be scheduled to accommodate new *pro se* interveners.

On average, each additional *pro se* intervener per hearing will result in \$1,750 in personnel costs to the PUC. Costs include PUC advisory staff time, PUC staff time, court reporter time, trial staff time, and PUC attorney time. While it is not possible to know the number of new interveners that will result from this bill, this fiscal note assumes a minimum of at least 10 new interveners annually, resulting in a minimum of \$17,500 in administrative costs in each fiscal year. Costs could be much higher, depending on the actual number of new interveners. Cost estimates per *pro se* intervener are based on PUC staff experience with current *pro se* interveners.

## **Other State Impacts**

Additional interveners imply additional costs for utilities, as they must respond to issues raised by interveners in hearings. Ultimately, these costs are recoverable, and will be borne by ratepayers, including state agencies.

**State Appropriations**

For FY 2012-13, the Department of Regulatory Agencies, Public Utilities Commission will require a cash fund appropriation of \$17,500 from the Fixed Utility Fund. If additional resources are required, this need will be addressed through the annual budgetary process.

**Departments Contacted**

Regulatory Agencies