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HOUSE BILL 04-1225

BY REPRESENTATIVE(S) Berry, Spradley, Romanoff, Boyd, Cloer, Stafford, Borodkin, Carroll, Coleman, Frangas, Hodge, Jahn, Madden, Marshall, McFadyen, McGihon, Merrifield, Paccione, Plant, Salazar, Tochtrop, Vigil, Weddig, and Weissmann;
also SENATOR(S) Sandoval, Jones, Chlouber, Gordon, Groff, Grossman, Hanna, Kester, Phillips, Tapia, Tupa, and Veiga.

CONCERNING THE "LOW-INCOME ENERGY ASSISTANCE ACT".

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

SECTION 1. Title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 8.7
Low-income Energy Assistance

40-8.7-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "LOW-INCOME ENERGY ASSISTANCE ACT".

40-8.7-102. Legislative declaration - energy assistance program

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

- creation. THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT IN ORDER TO SERVE THE BEST INTERESTS OF THE CITIZENS OF COLORADO, AND, IN PARTICULAR, TO AID LOW-INCOME CITIZENS OF COLORADO, THERE IS A NEED FOR AN ENERGY ASSISTANCE PROGRAM TO COLLECT A LOW-INCOME ENERGY ASSISTANCE CHARGE FROM UTILITY CUSTOMERS IN COLORADO. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE MOST EFFICIENT WAY TO SUPPORT SUCH A PROGRAM IS FOR GAS AND ELECTRIC UTILITIES TO COLLECT A MONTHLY CHARGE FOR LOW-INCOME ENERGY ASSISTANCE, AND THAT THE MONEYS COLLECTED SHALL BE MOST ECONOMICALLY AND EQUITABLY DISBURSED THROUGH A SYSTEM IN WHICH CUSTOMERS MAY ELECT NOT TO PARTICIPATE IN THE PROGRAM AND THE CHARGES COLLECTED BY ELECTRIC UTILITIES AND GAS UTILITIES ARE TRANSMITTED TO ENERGY OUTREACH COLORADO. THEREFORE, THE GENERAL ASSEMBLY HEREBY CREATES A LOW-INCOME ENERGY ASSISTANCE PROGRAM THAT PROVIDES FOR THE COLLECTION AND DISBURSEMENT OF AN OPTIONAL ENERGY ASSISTANCE CHARGE IN COLORADO THROUGH THE ENACTMENT OF THIS ARTICLE.

40-8.7-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGRICULTURAL CUSTOMER" MEANS A CUSTOMER WHOSE ACCOUNT SERVES AN ESTABLISHMENT PRIMARILY ENGAGED IN THE PRODUCTION OF AGRICULTURAL COMMODITIES FOR PROFIT.

(2) "ALTERNATIVE ENERGY ASSISTANCE PROGRAM" MEANS A PROGRAM OPERATED BY A MUNICIPALLY OWNED ELECTRIC AND GAS UTILITY OR RURAL ELECTRIC COOPERATIVE THAT IS NOT PART OF THE ENERGY ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE.

(3) "CUSTOMER" MEANS THE NAMED HOLDER OF AN INDIVIDUALLY METERED ACCOUNT UPON WHICH CHARGES FOR ELECTRICITY OR GAS ARE PAID TO A UTILITY. "CUSTOMER" SHALL NOT INCLUDE A CUSTOMER THAT RECEIVES ELECTRICITY OR GAS FOR THE SOLE PURPOSE OF RESELLING THE ELECTRICITY OR GAS TO OTHERS.

(4) "ENERGY ASSISTANCE PROGRAM" MEANS THE PROGRAM CREATED BY SECTION 40-8.7-102 THAT IS DESIGNED TO PROVIDE FINANCIAL ASSISTANCE, RESIDENTIAL ENERGY EFFICIENCY, AND ENERGY CONSERVATION ASSISTANCE.

(5) "INDIVIDUALLY METERED ACCOUNT" MEANS EVERY INDIVIDUAL STATEMENT OF CHARGES BETWEEN A CUSTOMER AND A UTILITY THAT ARE DETERMINED BY A SINGLE METER FOR GAS OR A SINGLE METER FOR ELECTRICITY.

(6) "METER" MEANS ANY DEVICE USED TO COMPUTE THE AMOUNT OF ELECTRICITY OR GAS PROVIDED TO A CUSTOMER.

(7) "ORGANIZATION" MEANS ENERGY OUTREACH COLORADO, A COLORADO NONPROFIT CORPORATION, FORMERLY KNOWN AS THE COLORADO ENERGY ASSISTANCE FOUNDATION.

(8) "UTILITY" MEANS A CORPORATION, ASSOCIATION, PARTNERSHIP, COOPERATIVE, OR MUNICIPALLY OWNED ENTITY THAT PROVIDES RETAIL ELECTRIC SERVICE OR RETAIL GAS SERVICE TO CUSTOMERS IN COLORADO.

40-8.7-104. Energy assistance program - energy assistance charge - rules. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, EVERY UTILITY DOING BUSINESS IN COLORADO SHALL PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM AND SHALL COLLECT AN ENERGY ASSISTANCE CHARGE BEGINNING SEPTEMBER 1, 2005. THE ENERGY ASSISTANCE CHARGE SHALL NOT BE COLLECTED FROM CUSTOMERS WHO OPT OUT OF THE ENERGY ASSISTANCE PROGRAM PURSUANT TO SECTION 40-8.7-106. EACH UTILITY SHALL COLLECT THE ENERGY ASSISTANCE CHARGE MONTHLY IN THE SAME MANNER AS ALL OTHER CHARGES AND FEES COLLECTED BY THE UTILITY FROM ITS CUSTOMERS. THE AMOUNT OF THE OPTIONAL CHARGE SHALL BE:

(a) FOR RESIDENTIAL CUSTOMERS, TWENTY-FIVE CENTS PER MONTH FOR EACH ACCOUNT FOR BOTH GAS AND ELECTRIC SERVICE;

(b) FOR AGRICULTURAL CUSTOMERS, TWENTY-FIVE CENTS PER MONTH FOR EACH ACCOUNT FOR BOTH GAS AND ELECTRIC SERVICE; AND

(c) FOR OTHER NONRESIDENTIAL CUSTOMERS, ONE DOLLAR PER MONTH FOR EACH ACCOUNT FOR BOTH GAS AND ELECTRIC SERVICE.

(2) THE CHARGES COLLECTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL NOT BE SUBJECT TO SALES TAX OR FRANCHISE FEES.

(3) THE PUBLIC UTILITIES COMMISSION SHALL DETERMINE WHETHER A CUSTOMER SHALL BE CHARGED FOR A SINGLE ACCOUNT IN CASES WHERE

THE CUSTOMER, INCLUDING AN AGRICULTURAL CUSTOMER, IS BILLED FOR ELECTRICITY OR GAS DELIVERED THROUGH MULTIPLE METERS AT A SINGLE ADDRESS. THE PUBLIC UTILITIES COMMISSION SHALL ESTABLISH RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (3).

(4) ANY REASONABLE COSTS THAT A UTILITY INCURS, INCLUDING THE INITIAL COSTS OF SETTING UP THE COLLECTION MECHANISM AND FOR THE ONGOING ADMINISTRATION OF THE OPT-OUT PROVISION FOR THE ENERGY ASSISTANCE CHARGE, SHALL BE REIMBURSED FROM THE ENERGY ASSISTANCE PROGRAM MONIES COLLECTED, AND THIS AMOUNT SHALL BE ESTABLISHED BY THE PUBLIC UTILITIES COMMISSION BY RULE. THE REIMBURSED AMOUNTS SHALL BE MADE TO THE UTILITIES BEFORE THE MONIES ARE DISTRIBUTED TO THE ORGANIZATION.

(5) IF A UTILITY THAT IS SUBJECT TO THE COMMISSION'S JURISDICTION HAS A QUALITY OF SERVICE PLAN APPROVED BY THE COMMISSION, THE COMMISSION SHALL EXCLUDE ANY IMPACTS STEMMING FROM THE IMPLEMENTATION OF THE ENERGY ASSISTANCE PROGRAM FROM THE CALCULATION OF RELEVANT QUALITY OF SERVICE PLAN MEASUREMENTS. THE IMPACTS MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, DELAYS IN ANSWERING CUSTOMER TELEPHONE CALLS AND AN INCREASE IN CUSTOMER COMPLAINTS.

40-8.7-105. Municipally owned gas, electric, and gas and electric utilities and rural electric cooperatives. (1) IF A MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL ELECTRIC COOPERATIVE OPERATES AN ALTERNATIVE ENERGY ASSISTANCE PROGRAM TO SUPPORT ITS LOW-INCOME CUSTOMERS WITH THEIR HOME ENERGY NEEDS, THEN THE GOVERNING BODY OF THE MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE MAY SELF-CERTIFY ITS ALTERNATIVE ENERGY ASSISTANCE PROGRAM AND UPON SELF-CERTIFICATION WILL HAVE NO OBLIGATIONS UNDER THIS ARTICLE. THE MUNICIPALLY OWNED UTILITY OR COOPERATIVE SHALL SUBMIT A STATEMENT TO THE ORGANIZATION THAT STATES SUCH UTILITY OR COOPERATIVE HAS AN ALTERNATIVE ENERGY ASSISTANCE PROGRAM. IN ORDER FOR SUCH UTILITY OR COOPERATIVE TO SELF-CERTIFY, SUCH ALTERNATIVE ENERGY ASSISTANCE PROGRAM SHALL MEET THE FOLLOWING CRITERIA:

(a) FUNDING OF THE PROGRAM SHALL BE DETERMINED BY THE GOVERNING BODY;

(b) PROGRAM MONEYS SHALL BE DISTRIBUTED IN A MANNER AND UNDER ELIGIBILITY CRITERIA DETERMINED BY THE GOVERNING BODY FOR THE PURPOSE OF RESIDENTIAL ENERGY ASSISTANCE TO CUSTOMERS THAT ARE CHALLENGED WITH PAYING ENERGY BILLS FOR FINANCIAL REASONS, INCLUDING TO SENIORS ON FIXED INCOMES, INDIVIDUALS WITH DISABILITIES, AND LOW-INCOME INDIVIDUALS;

(c) THE PROGRAM SHALL MAKE AVAILABLE TO ALL CUSTOMERS ON AN ANNUAL BASIS INFORMATION ABOUT THE PROGRAM, INCLUDING HOW MANY PEOPLE CONTRIBUTE TO THE PROGRAM, THE AMOUNT OF MONEY CONTRIBUTED, THE NUMBER OF PEOPLE WHO WERE HELPED BY THE PROGRAM, AND THE NUMBER OF PEOPLE WHO QUALIFIED TO RECEIVE FUNDING. THIS INFORMATION MAY BE DISTRIBUTED BY WRITTEN NOTICE OR BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AUTHORIZED SERVICE AREA OF THE MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE.

(2) IF THE GOVERNING BODY OF A MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL ELECTRIC COOPERATIVE DETERMINES THAT THE SERVICE AREA OF SUCH UTILITY OR COOPERATIVE HAS A LIMITED NUMBER OF PEOPLE WHO QUALIFY FOR ENERGY ASSISTANCE, SUCH UTILITY OR COOPERATIVE MAY BE EXEMPT FROM THE OBLIGATIONS OF THIS ARTICLE.

(3) IF A MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE HAS NOT SELF-CERTIFIED AN ALTERNATIVE ENERGY ASSISTANCE PROGRAM PURSUANT TO SUBSECTION (1) OF THIS SECTION, OR HAS NOT EXEMPTED ITSELF PURSUANT TO SUBSECTION (2) OF THIS SECTION, SUCH UTILITY OR COOPERATIVE SHALL COLLECT AN ENERGY ASSISTANCE CHARGE FROM ITS CUSTOMERS AS PROVIDED IN SECTION 40-8.7-104 (1) AND (2). IN SUCH CIRCUMSTANCES, THE GOVERNING BODY OF SUCH UTILITY OR COOPERATIVE SHALL DETERMINE THE DISPOSITION AND DELIVERY OF THE OPTIONAL ENERGY ASSISTANCE CHARGE THAT IT COLLECTS ON THE FOLLOWING BASIS:

(a) SUCH GOVERNING BODY MAY ELECT TO DELIVER THE OPTIONAL CHARGE THAT IT COLLECTS TO THE ORGANIZATION FOR DISTRIBUTION IN ACCORDANCE WITH THIS ARTICLE.

(b) IF THE ELECTION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) IS NOT MADE, THEN:

(I) THE ENERGY ASSISTANCE MONEYS COLLECTED SHALL BE DISTRIBUTED UNDER ELIGIBILITY CRITERIA DETERMINED BY THE GOVERNING BODY FOR THE PURPOSE SET FORTH IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION;

(II) SUCH GOVERNING BODY SHALL DETERMINE WHETHER IT IS APPROPRIATE TO PROVIDE AN OPT-OUT MECHANISM WHEREBY THE ENERGY ASSISTANCE CHARGE, DESCRIBED IN SECTION 40-8.7-104, WILL NOT BE COLLECTED FROM THOSE CUSTOMERS WHO GIVE NOTICE OF INTENT NOT TO PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM. THE NAMES OF THE CUSTOMERS UTILIZING THE OPT-OUT PROVISION SHALL BE CONFIDENTIAL.

(III) SUCH GOVERNING BODY SHALL REQUIRE THAT, IN CASES WHERE A SINGLE CUSTOMER, INCLUDING AN AGRICULTURAL CUSTOMER, IS BILLED FOR ELECTRICITY OR GAS DELIVERED THROUGH MULTIPLE METERS AT A SINGLE ADDRESS, THE CUSTOMER SHALL BE CHARGED FOR A SINGLE ACCOUNT; AND

(IV) SUCH GOVERNING BODY SHALL REPORT ON THE COLLECTION AND DISTRIBUTION OF THE MONEYS IN THE SAME MANNER AS SET FORTH IN PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

(4) MUNICIPALLY OWNED GAS, ELECTRIC, AND GAS AND ELECTRIC UTILITIES AND RURAL ELECTRIC COOPERATIVES MAY PROVIDE FUNDING FOR ENERGY ASSISTANCE TO THE ORGANIZATION BY UTILIZING ANOTHER SOURCE OF FUNDING OTHER THAN AN OPTIONAL CHARGE ON CUSTOMERS' BILLS, IF THE AMOUNT IS SUBSTANTIALLY SIMILAR.

(5) ANY REASONABLE COSTS THAT A MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE INCURS, INCLUDING THE INITIAL COSTS OF SETTING UP THE COLLECTION MECHANISM AND ONGOING PROGRAM ADMINISTRATION, MAY BE REIMBURSED, AT THE DISCRETION OF THE GOVERNING BODY, FROM THE ENERGY ASSISTANCE MONEYS COLLECTED.

(6) FOR MUNICIPALLY OWNED GAS, ELECTRIC, AND GAS AND ELECTRIC UTILITIES AND RURAL ELECTRIC COOPERATIVES, IF THE ADMINISTRATION COSTS OF THE LOW-INCOME ENERGY ASSISTANCE PROGRAM EXCEED THE REVENUE GENERATED FOR ANY CALENDAR YEAR, THE REQUIREMENTS OF THIS ARTICLE SHALL TERMINATE AS TO THE UTILITY OR COOPERATIVE, UPON THE MAKING OF SUCH DETERMINATION BY THE

GOVERNING BODY.

40-8.7-106. Customer opt-out provision. (1) THE PUBLIC UTILITIES COMMISSION SHALL DETERMINE THE MECHANISM FOR AN OPT-OUT PROVISION WHEREBY THE ENERGY ASSISTANCE CHARGE DESCRIBED IN SECTION 40-8.7-104 WILL NOT BE COLLECTED FROM THOSE CUSTOMERS WHO GIVE NOTICE OF THEIR INTENT NOT TO PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM. THE PUBLIC UTILITIES COMMISSION SHALL BY RULE:

(a) MAKE THE MECHANISM SIMPLE AND COMPREHENSIVE BY WHICH CUSTOMERS CAN GIVE NOTICE THROUGH TELEPHONE, MAIL, ONLINE, OR ANY OTHER APPROPRIATE METHOD;

(b) IN ADDITION TO NOTIFICATION ON THE BILLING STATEMENT AS REQUIRED BY SECTION 40-8.7-107, ENSURE THAT UTILITIES NOTIFY CUSTOMERS ABOUT THE OPT-OUT PROVISION AT LEAST FOUR TIMES PRIOR TO SEPTEMBER 1, 2005, AND ENSURE THAT UTILITIES PROVIDE CLEAR, PERIODIC NOTICE OF THE OPT-OUT PROVISION AT LEAST TWICE PER YEAR, AND WHERE PRACTICAL ON A MONTHLY BASIS IN A STATEMENT ON THE BILL;

(c) CONSIDER THE MOST COST-EFFECTIVE METHOD POSSIBLE; AND

(d) ENSURE THAT ADEQUATE NOTICE OF THE PROVISION IS GIVEN TO ALL CUSTOMERS.

(2) THE NAMES OF CUSTOMERS UTILIZING THIS OPT-OUT PROVISION SHALL BE CONFIDENTIAL. ONCE A CUSTOMER OPTS OUT, THE CHARGE SHALL NOT BE COLLECTED FROM SUCH CUSTOMER. CHARGES COLLECTED PRIOR TO THE DATE THE CUSTOMER OPTS OUT OF THE PROGRAM SHALL NOT BE REFUNDED. CUSTOMERS SHALL HAVE THE OPTION TO RENEW THEIR PARTICIPATION IN THE PROGRAM.

40-8.7-107. Identification of charge - billing statement. THE ENERGY ASSISTANCE CHARGE SHALL APPEAR AS A SEPARATE LINE-ITEM CHARGE IN EVERY MONTHLY BILL FOR ELECTRICITY OR GAS AND SHALL BE IDENTIFIED IN THE BILLING STATEMENT. THE LINE ITEM SHALL IDENTIFY THE OPTIONAL LOW-INCOME CHARGE, STATE THE AMOUNT OF THE CHARGE, AND PROVIDE AND IDENTIFY A TOLL-FREE NUMBER FOR THE CUSTOMER TO CALL TO CHOOSE NOT TO PARTICIPATE IN THE PAYMENT OF THE CHARGE, UNLESS THE GOVERNING BODY DETERMINES OTHERWISE.

40-8.7-108. Disposition of moneys. (1) EVERY GAS AND ELECTRIC UTILITY SHALL TRANSFER THE MONEYS FROM THE ENERGY ASSISTANCE CHARGE TO THE ORGANIZATION ON THE FOLLOWING SCHEDULE:

(a) FOR THE MONEYS COLLECTED DURING THE PERIOD OF JANUARY 1 TO MARCH 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE COLLECTED MONEYS TO THE ORGANIZATION BY APRIL 30 OF SUCH YEAR;

(b) FOR THE MONEYS COLLECTED DURING THE PERIOD OF APRIL 1 TO JUNE 30 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE COLLECTED MONEYS TO THE ORGANIZATION BY JULY 31 OF SUCH YEAR;

(c) FOR MONEYS COLLECTED DURING THE PERIOD OF JULY 1 TO SEPTEMBER 30 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE COLLECTED MONEYS TO THE ORGANIZATION BY OCTOBER 31 OF SUCH YEAR; AND

(d) FOR MONEYS COLLECTED DURING THE PERIOD OF OCTOBER 1 TO DECEMBER 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE COLLECTED MONEYS TO THE ORGANIZATION BY JANUARY 31 OF THE NEXT YEAR.

(2) UTILITIES SHALL PROVIDE THE ORGANIZATION WITH A SUMMATION OF HOW THE MONEYS COLLECTED WERE GENERATED, INCLUDING THE NUMBER OF CUSTOMERS FOR RESIDENTIAL, AGRICULTURAL, AND NONRESIDENTIAL ACCOUNTS PARTICIPATING.

(3) THE ORGANIZATION SHALL PAY THE PUBLIC UTILITIES COMMISSION FROM THE MONEYS TRANSFERRED TO THE ORGANIZATION PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR ANY ADMINISTRATIVE COSTS INCURRED PURSUANT TO THIS ARTICLE.

40-8.7-109. Energy outreach Colorado - administration of the energy assistance charge. (1) THE ORGANIZATION SHALL HOLD AND ADMINISTER ALL MONEYS DELIVERED TO IT BY THE UTILITIES PURSUANT TO SECTION 40-8.7-108 IN A SEPARATELY IDENTIFIABLE ACCOUNT THAT SHALL BE RESTRICTED TO THE PURPOSES SET FORTH IN THIS ARTICLE. THE ORGANIZATION SHALL MAINTAIN ITS BOOKS AND RECORDS PERTAINING TO THE ENERGY ASSISTANCE CHARGES IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, AND, IN ADDITION, SHALL MAINTAIN RECORDS ADEQUATE TO IDENTIFY THE MONEYS COLLECTED BY EACH

UTILITY. IF THE ORGANIZATION COMMINGLES THE MONEYS COLLECTED AND DELIVERED WITH OTHER ASSETS OF THE ORGANIZATION FOR INVESTMENT PURPOSES, THE ORGANIZATION SHALL MAINTAIN ACCURATE ACCOUNTS OF THE INVESTMENT MONEYS, AND SHALL CREDIT OR CHARGE A PRO RATA PORTION OF ALL INVESTMENT EARNINGS, GAINS, OR LOSSES TO THE ACCOUNT THAT HOLDS THE ENERGY ASSISTANCE CHARGES.

(2) THE ORGANIZATION SHALL USE THE ENERGY ASSISTANCE CHARGES FOR THE PURPOSE OF LOW-INCOME ENERGY ASSISTANCE AND IMPROVING ENERGY EFFICIENCY. ALL FINANCIAL ASSISTANCE MONEYS SHALL BE PAID TO UTILITIES AS VENDOR PAYMENTS. THE MONEYS SHALL NOT BE USED FOR PROPANE, GAS, OR ELECTRIC ASSISTANCE FOR CUSTOMERS WHOSE PROPANE, GAS, ELECTRIC, OR GAS AND ELECTRIC COMPANIES DO NOT PARTICIPATE IN THE ORGANIZATION'S PROGRAM. THE ORGANIZATION MAY USE UP TO FIVE PERCENT OF THE MONEYS COLLECTED FOR ADMINISTRATION OF THE ENERGY ASSISTANCE PROGRAM. ADDITIONAL MONEYS MAY BE USED AS NECESSARY BY THE ORGANIZATION FOR THE ADMINISTRATION OF AN OPT-OUT PROVISION PURSUANT TO SECTION 40-8.7-106.

(3) THE ORGANIZATION SHALL, ON AN ANNUAL BASIS, DEVELOP A BUDGET FOR THE ENERGY ASSISTANCE PROGRAM TO DETERMINE THE ALLOCATION OF THE ENERGY ASSISTANCE CHARGES. ANY COSTS ASSOCIATED WITH THE PROGRAM SHALL BE RECOVERED FROM THE ENERGY ASSISTANCE CHARGES.

40-8.7-110. Low-income energy assistance program. (1) THE ORGANIZATION SHALL PROVIDE ENERGY ASSISTANCE TO INDIVIDUALS AND ORGANIZATIONS IN COLORADO. SUCH ASSISTANCE SHALL BE GIVEN PRIORITY TO HOUSEHOLDS WHERE:

(a) ONE OR MORE PERSONS ARE RECIPIENTS OF OLD AGE PENSION AS SET FORTH IN SECTION 26-2-111 (2), C.R.S.;

(b) ONE OR MORE PERSONS ARE RECIPIENTS OF AID TO THE NEEDY DISABLED AS SET FORTH IN SECTION 26-2-111 (4), C.R.S.;

(c) ONE OR MORE PERSONS ARE RECIPIENTS OF AID TO THE BLIND AS SET FORTH IN SECTION 26-2-111 (5), C.R.S.;

(d) ONE OR MORE PERSONS ARE RECIPIENTS OF SUPPLEMENTAL SECURITY DISABILITY BENEFITS UNDER 42 U.S.C. SEC. 1396, ET SEQ.

40-8.7-111. Reports. (1) THE ORGANIZATION SHALL SUBMIT A WRITTEN REPORT TO THE GENERAL ASSEMBLY, THE LEGISLATIVE AUDIT COMMITTEE, AND THE OFFICE OF THE STATE AUDITOR ON OR BEFORE MARCH 31 OF EACH YEAR, BEGINNING IN 2006, THAT COVERS THE IMMEDIATELY PRECEDING CALENDAR YEAR. THE REPORT SHALL INCLUDE:

(a) AN ITEMIZED ACCOUNT OF MONEYS RECEIVED BY THE ORGANIZATION FROM EACH UTILITY;

(b) THE AMOUNT OF MONEYS DISTRIBUTED, THE TYPE OF ASSISTANCE PROVIDED, THE GEOGRAPHIC AREA OF THE STATE SERVED, AND AN ITEMIZATION OF THE PROGRAMS THROUGH WHICH THE MONEYS ARE EXPENDED;

(c) THE NUMBER OF LOW-INCOME HOUSEHOLDS SERVED, BY UTILITY AND BY TYPE OF ASSISTANCE PROVIDED; AND

(d) AN AUDITED FINANCIAL STATEMENT FROM THE ORGANIZATION.

(2) THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC FOR REVIEW. THE UTILITIES SHALL USE THEIR BEST EFFORTS TO PROVIDE REPORT INFORMATION TO THE ORGANIZATION IN A TIMELY MANNER.

40-8.7-112. Jurisdiction of the public utilities commission. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO EXPAND OR ALTER THE JURISDICTION OF THE PUBLIC UTILITIES COMMISSION.

40-8.7-113. Repeal. (1) (a) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2010; EXCEPT THAT, IF AT ANY POINT AFTER SEPTEMBER 1, 2006, THE TOTAL COSTS OF THE LOW-INCOME ENERGY ASSISTANCE PROGRAM EXCEED THE REVENUE GENERATED FROM THE ENERGY ASSISTANCE CHARGES, THIS ARTICLE IS REPEALED IMMEDIATELY.

(b) PRIOR TO SUCH REPEAL, THIS ARTICLE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

(2) FOR MUNICIPALLY OWNED ELECTRIC AND GAS UTILITIES AND RURAL ELECTRIC COOPERATIVES, IF THE ADMINISTRATION COSTS OF THE LOW-INCOME ENERGY ASSISTANCE PROGRAM EXCEED THE REVENUE GENERATED FROM THE ENERGY ASSISTANCE CHARGES FOR ANY CALENDAR

YEAR, THE REQUIREMENTS OF THIS ARTICLE SHALL TERMINATE AS TO THE MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY AND RURAL ELECTRIC COOPERATIVE UPON SELF-CERTIFICATION.

SECTION 2. 24-34-104 (41), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(p) THE "LOW-INCOME ENERGY ASSISTANCE ACT" AS CREATED IN ARTICLE 8.7 OF TITLE 40, C.R.S.

SECTION 3. 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or

part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Lola Spradley
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John Andrews
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Mona Heustis
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO