

COLORADO TRANSMISSION UPGRADE ACT

A bill for an act relating to energy; providing for expedited cost recovery for certain transmission investments; authorizing and regulating transmission companies; permitting the transfer of transmission assets and operation to transmission companies; providing for expedited regulatory approval of transmission projects related to renewable generation; providing new criteria to analyze the need for transmission projects; transferring generation plant siting and transmission line routing authority to the Public Utilities Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF COLORADO:

ARTICLE 1

TRANSMISSION COMPANIES

Section 1. TRANSMISSION COMPANY. "Transmission company" means persons, corporations, or other legal entities and their lessees, trustees, and receivers, engaged in the business of owning, operating, maintaining, or controlling in this state equipment or facilities for furnishing electric transmission service in Colorado, but does not include public utilities, municipal electric utilities, municipal power agencies, cooperative electric associations, or generation and transmission cooperative power associations.

Section 2. TRANSMISSION COST ADJUSTMENT.

(a) Notwithstanding any other provision of this chapter, the commission may approve a tariff mechanism for the automatic annual adjustment of charges for the Colorado jurisdictional costs of new transmission facilities that have been separately filed and reviewed and approved by the commission or are certified as a priority project or deemed to be a priority transmission project.

(b) Upon filing by a public utility or utilities providing transmission service, the commission may approve, reject or modify, after notice and comment, a tariff that:

- (1) allows the utility to recover on a timely basis the costs net of revenues of facilities approved or certified or deemed to be certified;
- (2) allows a return on investment at the level approved in the utility's last general rate case, unless a different return is found to be consistent with the public interest;
- (3) provides a current return on construction work in progress, provided that recovery from Colorado retail customers for the allowance for funds used during construction is not sought through any other mechanism;
- (4) allows for recovery of other expenses if shown to promote a least-cost project option or is otherwise in the public interest;
- (5) allocates project costs appropriately between wholesale

and retail customers;

(6) provides a mechanism for recovery above cost, if necessary to improve the overall economics of the project or projects or is otherwise in the public interest; and

(7) terminates recovery once costs have been fully recovered or have otherwise been reflected in the utility's general rates.

(c) A public utility may file annual rate adjustments to be applied to customer bills paid under the tariff approved in paragraph (b). In its filing, the public utility shall provide:

(1) a description of and context for the facilities included for recovery;

(2) a schedule for implementation of applicable projects;

(3) the utility's costs for these projects;

(4) a description of the utility's efforts to ensure the lowest costs to ratepayers for the project; and

(5) calculations to establish that the rate adjustment is consistent with the terms of the tariff established in paragraph (b).

(d) Upon receiving a filing for a rate adjustment pursuant to the tariff established in paragraph (b), the commission shall approve the annual rate adjustments provided that, after notice and comment, the costs included for recovery through the tariff were or are expected to be prudently incurred and achieve transmission system improvements at the lowest feasible and prudent cost to ratepayers.

Section 3. TRANSMISSION ASSETS TRANSFER.

(a) Public utility owners of transmission facilities may, subject to Public Utilities Commission approval, transfer operational control or ownership of those transmission assets to a transmission company subject to Federal Energy Regulatory Commission jurisdiction.

For transmission asset transfers by a public utility, the Public Utilities Commission must review the request to transfer either in the context of a general rate case under this section or by initiating other proceedings it determines provide adequate review of the transmission asset transfer. The Public Utilities Commission may limit, in whole or in part, the transfer of transmission assets or the timing of those transfers by a public utility if it finds the limitation in the public interest. The commission may only approve a transfer if it finds that the transfer is consistent with the public interest.

In assessing the public interest, the commission shall evaluate, among other things, whether the transfer:

(1) facilitates the development of transmission infrastructure necessary to ensure reliability, encourages the development of renewable resources, and accommodates energy transfers within and between states;

(2) protects Colorado ratepayers against the subsidization of wholesale transactions through retail rates;

(3) ensures, in the case of operational control of transmission assets, that the state retains jurisdiction over the transferring utility for all aspects of service;

- (4) impacts Colorado retail rates; and
- (5) protects Colorado ratepayers from paying capital costs for transmission assets that have already been recovered.

(b) A transfer of operational control or ownership of transmission assets by a public utility under this subdivision is subject to Colorado law. The relationship between a public utility transferring operational control of transmission assets to another entity under this subdivision is subject to the provisions of Colorado law. If a public utility transfers ownership of its transmission assets to a transmission provider subject to the jurisdiction of the Federal Energy Regulatory Commission, the Public Utilities Commission may permit the utility to file a rate schedule providing for the automatic adjustment of charges to recover the cost of transmission services purchased under tariff rates approved by the Federal Energy Regulatory Commission.

(c) A municipal utility, a municipal power agency, or a joint venture may transfer operational control or ownership of transmission assets to a transmission company, or make investments in a transmission company, if the governing body of the municipal utility, municipal power agency, or joint venture finds that the transfer or investment is consistent with the public interest and will facilitate the development of infrastructure necessary to ensure reliability.

(d) **EFFECTIVE DATE.** This section is effective _____, and applies to petitions for approval of transfer of transmission assets filed on or after that date and does not apply to proceedings pending before the Public Utilities Commission before that date.

Section 4. LARGE ENERGY FACILITY.

"Large energy facility" means:

- (1) any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system;
- (2) any high-voltage transmission line with a capacity of 200 kilovolts or more and greater than 1,500 feet in length;
- (3) any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Colorado or that crosses a state line.

Sec. 5. SHOWING REQUIRED FOR CONSTRUCTION.

No proposed large energy facility shall be certified for construction unless the applicant can show in the case of a high-voltage transmission line, the relationship of the proposed line to regional energy needs with respect to a high-voltage transmission line, the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the

robustness of the transmission system or lower costs for electric consumers in Colorado;

Section 6. ASSESSING TRANSMISSION COMPANIES.

The commission and department may charge transmission companies their proportionate share of the expenses incurred in the review and disposition of proceedings under sections. A transmission company is not liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities. A transmission company may object to and appeal bills of the commission and department.

Sec. 7. PREVENTATIVE MAINTENANCE.

The commission may order public utilities to make adequate infrastructure investments and undertake sufficient preventative maintenance with regard to generation, transmission, and distribution facilities. The commission's authority under this section also applies to any transmission company that owns or operates electric transmission lines in Colorado.

**ARTICLE 2
ROUTING AND SITING AUTHORITY TRANSFER**

Section 1. HIGH VOLTAGE TRANSMISSION LINE. "High voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.

Section 2. JURISDICTION. The commission is hereby given the authority to provide for site and route selection for large electric power facilities. The commission shall issue permits for large electric power facilities in a timely fashion and in a manner consistent with the overall determination of need.

Questions of need, including size, type, and timing; alternative system configurations; and voltage must not be included in the scope of environmental review.