



COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2025 Sunset Review

Public Utilities Commission



October 15, 2025



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**Department of
Regulatory Agencies**

Executive Director's Office

October 15, 2025

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient, and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Public Utilities Commission (Commission). I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2026 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Title 40, C.R.S. The report also discusses the effectiveness of the Commission and staff in carrying out the intent of the statutes and makes recommendations for statutory changes for the review and discussion of the General Assembly.

Notably, on May 23, 2025, Governor Polis vetoed House Bill 25-1291 (HB 1291), which would have made significant changes to the state's regulation of transportation network companies (TNCs). In vetoing the bill, Governor Polis specifically directed COPRRR to,

explore recommendations to update the TNC regulatory structure and, if needed, expand the [Commission's] authority in regulating TNCs, with a specific focus on passenger safety and enhanced transparency[.]

As part of the sunset review, COPRRR staff engaged with stakeholders who participated in the development of HB 1291 and is aware that Commission staff further engaged with stakeholders and sponsors.

This sunset report contains five recommendations aimed at improving TNC passenger



safety and increasing transparency around TNCs. Additionally, DORA's, and more specifically the Commission staff's, stakeholder engagement process will continue as the Commission further engages in rulemaking. Therefore, the recommendations in this report may not be exhaustive of TNC-related issues that may arise for consideration in the 2026 legislative session.

To learn more about the sunset review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

A handwritten signature in black ink, reading "Patty Salazar", is displayed on a light gray rectangular background.

Patty Salazar
Executive Director





Public Utilities Commission

Background

What is regulated?

The Public Utilities Commission (Commission), located in the Department of Regulatory Agencies, has varying degrees of regulatory authority over natural gas, electrical, telecommunications, steam and water utilities, as well as motor carriers, transportation network companies, railroads and certain natural gas and propane pipelines. The PUC staff is responsible for administrative functions related to the Commission.

Why is it regulated?

Article XXV of the Colorado Constitution directs the Commission to regulate “the facilities, service and rates and charges of public utilities in Colorado.”

Who is regulated?

In fiscal year 23-24, the Commission had full regulatory authority over 178 fixed utilities and 379 transportation carriers. The Commission had partial regulatory authority over 2 municipal utilities, 1 cooperative electric utility and 276 Voice-over-Internet Protocol service providers, as well as safety jurisdiction over 1,810 transportation carriers and 109 liquid petroleum, natural gas and propane pipeline operators.

How is it regulated?

Regulation involves issuing certificates of public convenience and necessity to entities seeking to provide service as public utilities, issuing permits to transportation carriers, performing safety inspections and audits, resolving consumer complaints, ensuring that rates and services meet prescribed standards, and taking enforcement actions against those found to be in violation of the law.

What does it cost?

In fiscal year 23-24, PUC expenditures totaled more than \$24.3 million and 110 full-time equivalent employees were associated with the program.

What disciplinary activity is there?

In calendar years 2020 through 2024, enforcement activities included:

- Informal Complaints Closed: 2,934
- Formal Complaints Closed: 47
- Transportation Civil Penalty Assessment Notices: 123 assessments totaling approximately \$2.1 million
- Rates Suspended & Cases Heard: 53
- Gas Pipeline Safety Compliance Actions: 49
- Pipeline Safety Civil Penalties Assessed: \$9.7 million

Key Recommendations

- Continue the Public Utilities Commission and schedule future sunset reviews to occur by industry sector.
- Modernize certain energy statutes for transparency and clarity, and to remove redundant requirements.
- Authorize the Commission to develop TNC driver facial recognition requirements in rule and amend statute to include a criminal penalty for driver impersonation.

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Background

Sunset Criteria

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether the program under review is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To address the second sunset criterion--whether conditions that led to the initial creation of the program have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the fifth sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency or the agency's board performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the fourteenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

¹ Criteria may be found at § 24-34-104, C.R.S.

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

Table 1
Application of Sunset Criteria

Sunset Criteria	Where Applied
(I) Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare.	• Profile of the Industries • History of Regulation • Recommendations 1, 2, 6, 7, 8, 12, 14, 20 and 23
(II) Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight.	• History of Regulation • Recommendations 4, 5, 10, 13 and 15 • Administrative Recommendation 2
(III) If the program is necessary, whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms.	• Legal Framework • Recommendations 4, 13, 14 and 22
(IV) If the program is necessary, whether agency rules enhance the public interest and are within the scope of legislative intent.	• Legal Framework • Recommendation 6 • Administrative Recommendation 1
(V) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.	• Legal Framework • Program Description and Administration • Recommendations 4, 7, 8, 9, 11, 14, 16, 17 and 18 • Administrative Recommendation 1
(VI) Whether an analysis of agency operations indicates that the agency or the agency's board or commission performs its statutory duties efficiently and effectively.	• Program Description and Administration • Recommendations 3 and 21
(VII) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.	• Legal Framework • Program Description and Administration • Administrative Recommendation 2

Sunset Criteria	Where Applied
(VIII) Whether regulatory oversight can be achieved through a director model.	• Profile of the Industries • Recommendation 1
(IX) The economic impact of the program and, if national economic information is not available, whether the agency stimulates or restricts competition.	• Profile of the Industries • Recommendation 13
(X) If reviewing a regulatory program, whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity.	• Complaint Activity • Recommendations 7, 8, 9, 10 and 12
(XI) If reviewing a regulatory program, whether	• Licensing
(XII) Whether entry requirements encourage equity, diversity, and inclusivity.	• Program Description and Administration
(XIII) If reviewing a regulatory program, whether the agency, through its licensing, certification, or registration process, imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses, certifications, or registrations that the agency denied based on the applicant's criminal history, the number of conditional licenses, certifications, or registrations issued based upon the applicant's criminal history, and the number of licenses, certifications, or registrations revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	• Collateral Consequences
(XIV) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	• Recommendations 1 through 23 • Administrative Recommendations 1 and 2

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at coprrr.colorado.gov.

The functions of the Public Utilities Commission (Commission), as enumerated in Article Title 40, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2026,

unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Commission pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of the Commission and staff. During this review, the Commission and staff must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff interviewed PUC staff and Commissioners, practitioners, and officials with state and national professional and trade associations; and reviewed Colorado statutes and rules, and the laws of other states.

The major contacts made during this review include, but are not limited to:

AARP	Colorado Cross-Disability Coalition
Advanced Energy United	Colorado Decarbonization Coalition
American Civil Liberties Union of Colorado	Colorado Department of Labor and Employment
American Petroleum Institute	Colorado Department of Natural Resources
Atmos Energy	Colorado Department of Public Health and Environment
Baxter Water	Colorado Department of Regulatory Agencies
Black Hills Energy	Colorado Electric Transmission Authority
BlueGreen Alliance	Colorado Energy Consumers
Center for the New Energy Economy	Colorado Energy Office
Chevron	Colorado Independent Energy Association
City and County of Denver	Colorado Office of the Utility Consumer Advocate
City of Boulder	Colorado Press Association
Clean Air Task Force	Colorado Renewable Energy Society
Clean Energy Action	Colorado Rural Electric Association
Colorado Association of Municipal Utilities	Colorado Solar and Storage Association
Colorado Attorney General's Office	Colorado Telecommunications Association
Colorado Cable Telecommunications Association	Denver International Airport
Colorado Center for the Blind	Drivers Cooperative - Colorado
Colorado Coalition for a Livable Climate	Energy Outreach Colorado
Colorado Commission of the Deaf, Hard of Hearing and DeafBlind	
Colorado Communities for Climate Action	
Colorado Concern	

GreenLatinos
GRID Alternatives
Independence Institute
Interwest Energy Alliance
Lumen
Lyft
Namaste Solar
National Federation of the Blind
Office of the Attorney General
Pipefitters Local #208
Pipeline and Hazardous Materials Safety
Administration, U.S. Department
of Transportation
Pivot Energy
Prison Policy Initiative
Public Utilities Commission

Public Utilities Commissioners
Regional Transportation District
RMI
Securis Technologies
Southwest Energy Efficiency Project
Summit County 911 Center
The Nature Conservancy
Tri-State Generation and Transmission
Association
Uber
Utility API
Vantage Data Centers
Western Resource Advocates
Womxn from the Mountain
Xcel Energy

Profile of the Industries

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), C.R.S. The first criterion asks whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare.

To understand the need for regulation, it is first necessary to recognize what the Public Utilities Commission does and what industries it regulates.

The ninth sunset criterion questions the economic impact of the program and, if national economic information is not available, whether the agency stimulates or restricts competition.

In Colorado, the Public Utilities Commission (Commission) is comprised of three members who are appointed by the Governor. Notably, there are a variety of commission structures utilized throughout the country. As such, COPRRR compared the structure of commissions (or commission equivalents) in all contiguous states west of the Mississippi River. Topics included: where the commission is housed in state government; which industries/utilities are regulated; size of the commission; requirements for commissioners to be elected/appointed; and how commissions are administered, including staffing.

Of the 21 states researched, most of the states' commissions are stand-alone agencies, whereas Colorado's Commission is part of a larger department structure. Thirteen of the states' commissions are composed of three commissioners (including Colorado), and eight are composed of five commissioners. Of the 21 states, the Governors of 14 states appoint their commissioners (including Colorado), while the commissioners in seven states are elected.

Most of the states' commissions, including Colorado, have a non-commissioner staff member (such as a Director, Executive Director, Executive Secretary, or Chief Executive Officer) perform the administrative duties involved in running the agency. Only two of the states surveyed have a commission chair directly perform these duties. Nonetheless, several states' commissioners make personnel decisions, with the non-commissioner staff directly responsible for managing human resources. Often, the non-commissioner staff member with hiring/firing duties performs these functions with consent and/or collaboration with the commissioners, especially for staff reporting directly to the commissioners. Commission staff sizes range considerably from under 20 to over 500 total staff members, and the higher ranges usually correlate with the commissions that have both administrative and trial staff. Notably, California's and Texas's commissions did not respond to inquiries about staff size, so their staff numbers may be higher than this upper range.

Thus, while commission structures vary from state to state, the structure of Colorado's Commission is not out of the ordinary.

In Colorado, the Commission’s regulatory authority encompasses six general categories: energy, gas pipeline safety, telecommunications, transportation, rail/transit safety, and water.

Energy

More than ever before, modern society depends upon reliable electrical service to ensure economic prosperity, national security and public health and safety. Without electricity, everyday things like food preparation, water distribution and law and order become difficult or impossible. New industries and services, such as artificial intelligence and data centers are driving demand and reliability requirements to new heights.

Capital investment in the electric industry is a significant driver of the overall cost of electricity. While coal and natural gas were historically used to generate most electricity, renewable energy resources such as wind and solar have become significant suppliers of electricity. More recent efforts at developing energy storage technologies, such as batteries, and the evolution of microgrids are also likely to play important roles in the future.

The electric distribution system in the United States is highly complex, but, in the end, it consists of little more than the movement of electrons from one physical location to another at the time they are needed. This requires careful and constant monitoring of demand and supply. Power must be brought online, ramped up or down, and taken offline within precise time limitations to match the fluctuations in demand, or load, for electricity throughout the grid in order to prevent system instability or collapse.

Electrons are most commonly generated at power plants. A power plant may be owned by a utility or by an independent power producer (IPP), and it may be located inside or outside of Colorado. Colorado’s peak summer generating capacity in 2023, the last year for which such data are available, was 19,541 megawatts (MW), of which 8,334 MW (42.6 percent) was produced by IPP’s or combined heat and power (CHP) producers.^{2,3}

There are three primary types of electric utilities in Colorado that distribute or transmit electricity: investor-owned utilities, municipal utilities and cooperatives. The Commission has financial, electric resource planning, and quality of service regulatory authority over two investor-owned electric utilities and limited electric resource and transmission planning regulatory authority over one wholesale electric transmission and generation cooperative utility. The Commission has only partial regulatory authority over municipal electric utilities (annual reporting and rates when services are offered

² CHP systems, also known as cogeneration systems, generate electricity and useful thermal energy in a single, integrated system. See American Council for an Energy-Efficient Economy. *Combined Heat and Power (CHP)*. Retrieved July 16, 2025, from www.aceee.org/topics/chp

³ U.S. Energy Information Administration. *Electricity: Colorado Electricity Profile 2023*. Retrieved July 16, 2025, from www.eia.gov/electricity/state/colorado/

outside of municipal boundaries and only if those rates differ from those charged to municipal customers) and 25 electric cooperative associations (transmission lines). The Commission has jurisdiction over intrastate transmission lines, distribution lines and substations in Colorado for the two investor-owned utilities and intrastate transmission lines and substations for one transmission and generation cooperative.

The General Assembly and the Commission have established a rigorous process by which investment in electric generation facilities is vetted and ultimately determined to be in the public interest. Both investor-owned utilities are required to file electric resource plan applications. When a regulated utility seeks to construct, own and operate a generating facility to service Colorado consumers, the utility must obtain a certificate of public convenience and necessity from the Commission. In other words, the utility must demonstrate that the generating facility is necessary.

Electricity can be generated in many ways. Historically, the most common method was the coal-fired plant. Coal is burned to heat water, creating steam, forcing a turbine to turn, thereby creating electricity. Although coal itself is relatively inexpensive, the cost of a coal plant can easily reach into the billions of dollars and take five or more years to construct. Additionally, it takes hours to fire up a coal plant and bring it online and hours to take one offline. As a result, coal plants are considered to be base-load generating facilities, meaning that they are depended on to be online most of the time. The majority of Colorado's coal plants are 40 to 50 years old and the last of these is scheduled to close by the end of 2031.

Natural gas-fired plants have become more common in the last few decades. Depending on the type of plant, the natural gas may be used to power a gas turbine, which is similar to an aircraft jet engine, thereby creating electricity. Additionally, in a combined cycle plant, the exhaust from the turbine heats water, creating steam, forcing a steam turbine to turn, thereby generating even more electricity.

Although natural gas may sometimes be more expensive than coal, prices are subject to international market conditions and can fluctuate wildly. Natural gas power plants can be built at substantially less cost and, generally, in less time than coal plants. Many can be taken online or offline in a matter of minutes, making them ideal for both base- and peak- load operations.

Even more recently, renewable sources of energy have gained a larger share of generating capacity in the state. These include, but are not limited to: hydroelectric, geothermal, biomass, wind turbines and solar arrays. The amount of energy produced by these sources is growing quickly and their cost is now competitive with both coal and natural gas. However, since these sources are dependent on the sun shining or the wind blowing, they have not, for reliability purposes, been considered base-load sources. Rather, these types of resources have historically been considered intermittent or "must take" sources, meaning that when the sun shines during the day or the wind blows, typically in the evenings, these resources are utilized, regardless of

systemic demand at the moment. Emerging storage technologies, such as batteries, are quickly changing that status, however.

The passage of Amendment 37 in 2004 popularized a new type of generation in Colorado—customer-sited generation. This allows consumers, and others, to install solar panels, for example, and receive federal tax incentives as well as incentives from some utilities. In short, customer-sited generation not only reduces the amount of electricity that these consumers take from the grid, but allows them, through net metering, to sell their generated and unused electricity back to the utility by allowing the electricity to flow onto the grid.

How electricity is generated and distributed continues to evolve. Customer-sited generation has led to distributed generation, such as solar gardens. Micro grids are another form of distribution that is limited to certain geographic regions.

The energy mix of Colorado’s power producers in March 2025 consisted of: non-hydroelectric renewables (44.4 percent); coal (26.2 percent); natural gas (26.27 percent) and hydroelectric (3.6 percent).⁴

Once the electricity has been generated, it enters the grid and the electrons flow through a series of transmission and distribution lines. Higher voltage transmission lines are used to transport the electrons over greater distances and step-down substations and transformers are used to take the electricity from higher voltage to relatively lower voltage transmission and distribution lines until, ultimately, the electricity is delivered to the end user.

Once the electrons reach the end user, a meter records the amount of electrons taken off the grid, as well as the rate of consumption for larger commercial users, which then serves as the basis for that customer’s bill from the utility.

Recent advances in distributed generation, energy storage, smart meters and grids, micro grids, virtual power plants and regional transmission organizations, along with a multitude of other factors, make the future of Colorado’s energy infrastructure, and the Commission’s role in regulating it, increasingly dynamic.

Natural Gas

Natural gas is extracted from the ground and then transported through gathering lines to processing facilities where impurities such as water, heavy metals and valuable liquids are removed. The gas is then compressed and sent into transmission lines, which deliver the gas to local distribution companies, more commonly referred to as natural gas utilities, for ultimate distribution to the end user who may use the gas to, among other things, heat a structure, heat water or generate electricity.

⁴ U.S. Energy Information Administration. *Colorado: State Profile and Energy Estimates*. Retrieved July 16, 2025, from www.eia.gov/state/?sid=CO#tabs-4

There are two primary types of natural gas utilities: investor-owned and municipal. Colorado has four investor-owned natural gas utilities, five investor-owned propane utilities, and nine municipal natural gas utilities.

While the Commission fully regulates the rates and service that investor-owned utilities provide their customers, the Commission asserts jurisdiction over municipal utilities only when they serve customers outside their physical boundaries and only when those customers are charged more than customers within the municipality's physical boundaries.

Regardless of the type of utility, natural gas utilities buy natural gas in an unregulated, competitive wholesale market. As a result of fluctuations in this market, and due to differences in forecasted versus actual costs, the cost to consumers also fluctuates through a gas cost adjustment mechanism and hedging programs regulated by the Commission. While this may result in more volatile natural gas bills, it provides customers with a price signal and encourages conservation when the cost of gas is relatively high. Following the experience of Winter Storm Uri in 2022, the General Assembly enacted legislation requiring the Commission to set a ceiling for gas prices to help insulate customers from extremely high prices.

Steam

Steam is generally used to heat and, in some cases, cool buildings. Additionally, the steam can be used to heat water for laundries, as is most common in the hotel industry.

The steam is created at a plant by burning natural gas to heat the water, thereby creating steam. Additives are injected into the steam to prevent corrosion of the steam pipeline system and to inhibit bacterial growth, and then the steam is delivered into the steam pipeline system. Steam customers are connected to the steam pipeline system and take steam as they need it.

In Colorado, there is only one steam utility, and it serves approximately 115 commercial customers in downtown Denver. Two of the utility's larger customers are the City and County of Denver and the State of Colorado.

The advantage to a customer of buying steam from a utility is the avoidance of purchasing, installing and maintaining a boiler for an individual building. Additionally, not all buildings have the physical space required to accommodate a boiler.

Geothermal

Large-scale geothermal energy projects involve tapping into superheated water under the earth's surface and using that water either as a heat source or to generate electricity. Several limitations on the practicality of geothermal energy involve the depth at which the water is located and the relative depth of magma from the earth's surface.

Tapping into such a large-scale geothermal energy source is akin to drilling for oil. The reservoirs are typically miles below the surface and require the well to be encased and topped off before the resource can be exploited. As a result, it can be very expensive to develop geothermal energy sources.

Regardless, geothermal energy is used in several Colorado locations, including providing space heating and hot water on a community scale, to heat pools and spas, to heat green houses and even for aquaculture.⁵

Additionally, one Colorado utility is piloting some thermal energy network systems pursuant to House Bill 23-1252.

Pipeline Safety

Pipelines transport energy products throughout the country to heat and cool homes, power businesses and fuel transportation systems.⁶ The Pipeline and Hazardous Materials Safety Administration (PHMSA) in the U.S. Department of Transportation regulates pipelines that include:

- Natural gas pipelines, and
- Hazardous liquids.

Both federal and state agencies regulate pipelines throughout the United States. Interstate pipelines are regulated by PHMSA. The federal government is responsible for developing, issuing and enforcing pipeline safety regulations. Most inspections, however, are conducted by state agencies. State regulations must be at least as stringent as federal regulations, and states are responsible for the regulation, inspection and enforcement of pipelines within state boundaries.⁷

PHMSA annually certifies each state agency that conducts inspections and enforces pipeline safety within its state lines. The PUC serves this function for Colorado.

There are three different types of gas pipelines:⁸

- Gas distribution pipelines, which distribute gas to homes and businesses;
- Gas transmission pipelines, which transport gas thousands of miles across the country from processing facilities; and

⁵ Colorado Geological Survey. *Geothermal*. Retrieved July 16, 2025, from www.coloradogeologicalsurvey.org/energy/e-geothermal/

⁶ Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation. *General Pipeline FAQs*. Retrieved August 22, 2025, from <https://www.phmsa.dot.gov/faqs/general-pipeline-faqs>

⁷ National Conference of State Legislatures. *Federal and State Responsibilities*. Retrieved August 22, 2025, from <http://www.ncsl.org/research/energy/state-gas-pipelines-federal-and-state-responsibili.aspx>

⁸ U.S. Department of Transportation. *Natural Gas Pipeline Systems*. Retrieved August 22, 2025, from <https://primis.phmsa.dot.gov/comm/NaturalGasPipelineSystems.htm>

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- Gas gathering pipelines, which transport raw natural gas from production wells to transmission pipelines.

The PUC has jurisdiction over intrastate pipelines, including approximately:⁹

- 39,063 miles of gas distribution lines,
- 2,840 miles of gas transmission lines, and
- 5,334 miles of regulated gas gathering lines.

PHMSA oversees interstate gas transportation and all hazardous liquid transportation, and the Colorado Energy and Carbon Management Commission promulgates and enforces rules for pipelines directly associated with gas and oil production. Only the PUC's oversight of intrastate pipelines is relevant to this report.

Telecommunications

Over the last 40 years, the telecommunications industry has undergone several historic changes. The first of these involved the American Telegraph and Telephone Company (AT&T), which dominated the U.S. telecommunications industry throughout much of the 20th century. In 1982, after contesting a federal antitrust lawsuit for several years, AT&T agreed to divestment of its local operating companies.

The divestiture of AT&T, which was completed in 1984, created competition in the long-distance market, and it also provided an opportunity for the formation of multiple new local service telecommunications companies. Specifically, AT&T was divided into seven Regional Bell Operating Companies (RBOCs), commonly known as the "Baby Bells." In Colorado, Mountain States Telephone and Telegraph (Mountain Bell) became one of three major subsidiaries consolidated under the umbrella of US West, one of the seven RBOCs, which later merged with Qwest, another competitive local exchange provider and, following another merger in 2011, CenturyLink. In 2020, CenturyLink adopted the name Lumen Technologies.

With the breakup of AT&T, and the continued evolution of the telecommunications industry, the country's service areas (territories) were divided into Local Access Transport Areas (LATAs). In Colorado, there are two LATAs. One LATA covers the 303, 720, 719 and 983 area codes, and the other LATA covers the 970 and 748 area codes. At the time of divestiture, intrastate calls were subject to Commission jurisdiction, while interstate calls fell under the jurisdiction of the federal government.

Congress passed the Telecommunications Act of 1996 (FTA), which transformed the Communications Act of 1934. The new law permitted a variety of companies, including cable, wireless, long-distance and satellite companies, to compete in offering

⁹ Colorado Department of Regulatory Agencies. *Pipeline Safety Program*. September 24, 2025 Base Grant Application.

telecommunications services for both local and long-distance services. The FTA established provisions for new companies or Competitive Local Exchange Carriers (CLECs) to compete with existing or Incumbent Local Exchange Carriers (ILECs) in the local service market. The purpose of the FTA was to create a competitive telecommunications market.

The FTA also enabled the Federal Communications Commission (FCC) to preempt any state or local law or regulation that presents an “illegitimate barrier” to the telecommunications market by favoring one provider over another. Under the FTA, ILECs are required to resell or lease to other competitive carriers (CLECs) access to their physical infrastructure at any technically feasible point as well as provide access to other services, such as directory assistance and emergency service. ILECs, in turn, are permitted to offer long-distance services within their incumbent territory. The new law also permitted a variety of companies, including cable, wireless, long-distance and satellite companies, to compete in offering telecommunications services for both local and long-distance services.

Transportation

Motor Carriers

The Commission regulates motor carriers operating in Colorado. To varying degrees, the Commission regulates commercial enterprises that transport people and/or goods. The common foundation of motor carrier regulation, regardless of the category in which a motor carrier company may be classified is public safety and company indemnification. The PUC has the right to inspect the “motor vehicles, facilities, and records and documents” of motor carriers to enforce regulation.¹⁰

The PUC’s oversight of motor carriers generally entails verifying the safety and insurance of passenger carriers, household goods movers, and towing/immobilization carriers who operate on an intrastate basis, rate regulation of towing carriers, large-market taxi companies, and common and contract carriers; and market entry for common and contract carriers. The Commission also regulates booting/immobilization companies.

Generally, the difference between a common and a contract carrier is that a common carrier provides indiscriminate service to the public and charges are paid by the passenger. An example is a taxi which must give a ride to any member of the public without discrimination. A contract carrier, on the other hand, provides services based on a contract. An example is a transportation company that contracts with a property owner to transport guests for a fee paid by the property owner and not the guests.

¹⁰ § 40-10.1-102, C.R.S.

A full list of the types of motor carriers regulated by the Commission is as follows:

- Common Carrier (taxi/shuttle/sightseeing),
- Contract Carrier,
- Luxury Limousine,
- Children's Activity Bus,
- Charter Bus,
- Off-Road Scenic Charter,
- Fire Crew Transport,
- Towing Carrier,
- Boating Companies,
- Household Goods Mover, and
- Large-Market Taxicab Service.

Additionally, in 2014, Colorado became the first state to regulate transportation network companies (TNCs). Statute defines a TNC as a:

...corporation, partnership, sole proprietorship, or other entity, operating in Colorado, that uses a digital network to connect riders to drivers for the purpose of providing transportation. A transportation network company does not provide taxi service, transportation service arranged through a transportation broker, ridesharing arrangements...or any transportation service over fixed routes at regular intervals. A transportation network company is not deemed to own, control, operate, or manage the personal vehicles used by transportation network company drivers. A transportation network company does not include a political subdivision or other entity exempted from federal income tax under section 115 of the federal "Internal Revenue Code of 1986", as amended.

Unless regulation is specifically delineated in statute, TNCs are exempt from the Commission's rate, market entry, operational, and common carrier requirements.

According to statute, TNCs are explicitly not regulated as motor carriers. However, they are subject to limited regulation by the Commission.

Several revisions to the regulation of the non-consensual towing industry have occurred within recent years, as evidenced by the passage of House Bills 21-1283, 22-1314, and 24-1051. These pieces of legislation have granted additional authority to the Commission to enforce new standards on towing carriers. Rates for most types of tows and storage are regulated by the Commission in rule. These rates are currently subject to annual adjustments, which occur annually in March. Any registered towing company may apply for a waiver or variance of any towing rules set by the Commission. Regarding consensual towing, the Commission regulates permitting, insurance and safety, but not rates.

Commission involvement with interstate motor carriers is extremely limited. The PUC is the designated agency for Colorado to manage the federal Unified Carrier Registration System (UCR).¹¹ The UCR is a federal-state revenue program for interstate motor carriers, brokers, and leasing companies.

Rail/Transit Safety

The Federal Transit Administration (FTA) mandates that every state with a rail fixed guideway system must have an approved State Safety Oversight (SSO) program. A rail fixed guideway system, as defined in Colorado law is,¹²

...any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway used to transport passengers that is not regulated by the federal railroad administration.

Rail fixed guideway systems do not include funiculars that are passenger tramways as defined in section 12-150-103(5)(c), C.R.S., and are subject to the jurisdiction of the Colorado Passenger Tramway Safety Board, or automatic people movers that are automated guideway mechanical conveyances as defined in section 9-5.5-103(11), C.R.S., and are subject to the jurisdiction of the Colorado Division of Oil and Public Safety.

The PUC houses the SSO program. Among other tasks, the program must adopt and enforce laws concerning safety and employ individuals who have completed the Public Transportation Safety Training Program.¹³

The PUC acts in conjunction with the FTA, and Colorado must follow federal guidelines in order to retain its authority as an SSO. The SSO program was re-certified by the FTA in 2018 as being compliant with federal laws and rules.

Aside from the federal mandates, the Commission also has sole authority over rail systems that operate on intrastate lines that are not connected to the interstate system of lines.¹⁴

Regulation of rail by the Commission is limited to safeguarding highway-rail grade crossings consisting of an intersection between a railroad right-of-way with a public roadway to ensure these crossings are safe. It regulates everything about these highway-rail crossings from grade to signage to active warning safety appliances to bridge structures. The Commission also regulates safe clearances of tracks and structures.

¹¹ § 40-10.5-102(2)(a), C.R.S.

¹² § 40-18-101(3), C.R.S.

¹³ 49 CFR § 674.11

¹⁴ 4 CCR § 723-7-7100, Rules Regulating Railroads, Rail Fixed Guideways, Transportation By Rail, And Rail Crossings.

Water Utilities

In Colorado, water utilities are regulated in several ways. Most water utilities, such as municipal water utilities and special water districts, fall outside the jurisdiction of the Commission. These entities are accountable to consumers through their own bylaws and governing procedures. Corporations registered as non-profits are also exempt from Commission oversight¹⁵ although, in some circumstances, formal complaints are permitted.

For-profit water utilities, however, are subject to Commission jurisdiction under limited circumstances. If the Commission receives a complaint against a for-profit water utility, it asserts regulatory authority over the utility.

The water utilities that are currently regulated by the Commission include four small investor-owned entities. All four are regulated due to a complaint or complaints having been filed against them, typically involving rate increases.

Once the Commission asserts authority over an investor-owned water utility, it approves tariffs, which set rates and terms of service for the utility. The Commission reviews requests for rate changes by the investor-owned water utilities to ensure that the proposed rate changes meet financial, engineering, legal and economic requirements. In addition to approving rate changes, the PUC assists investor-owned water utilities in establishing standards to initiate and maintain service and equipment to an appropriate level for the comfort and convenience of the customers.

For small, under 1,500 customers, privately owned water utilities, the Commission provides regulatory oversight through simplified regulatory treatment. Specifically, section 40-3-104.4, C.R.S., states:

The Commission, with due consideration to public interest, quality of service, financial condition, and just and reasonable rates, must grant regulatory treatment that is less comprehensive than otherwise provided for under this article to small, privately owned water companies that serve fewer than 1,500 customers. The Commission, when considering policy statements and rules, must balance reasonable regulatory oversight with the cost of regulation in relation to the benefit derived from such regulation.

¹⁵ § 40-3-104.4, C.R.S.

Legal Framework

History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first and second sunset criteria question:

Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare; and

Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less or the same degree of governmental oversight.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

Energy

The following timeline outlines significant regulation milestones related to electric utilities:

1961 - All suppliers of electricity, including cooperative and non-profit electric associations were declared to be public utilities, placing them under the jurisdiction of the Public Utilities Commission (Commission).

1983 - Cooperative electric associations were allowed to exempt themselves from Commission regulation by majority vote of their members and consumers. Municipal utilities were also exempted from Commission regulation.

1983 - The General Assembly authorized the Commission to pursue civil actions against electric utilities.

1992 - The Commission was given the power to flexibly regulate electric utilities by approving or denying applications for special rate contracts. Utilities were prohibited from subsidizing such contracts by raising the rates of other regulated utility operations.

1992 - The federal government enacted the Federal Energy Policy Act of 1992, requiring open access of investor-owned electric transmission lines. The act also prohibited the Federal Energy Regulatory Commission (FERC) from regulating retail wheeling, leading many to conclude that states could now regulate retail wheeling.

1998 - The 21-member Colorado Electricity Advisory Panel (CEAP) was created to assess whether retail competition in the electricity market would benefit the state's consumers.

1999 - CEAP issued its final report, which concluded that restructuring Colorado's electricity market to enable retail competition would not be in the best interests of consumers.

1999 - The Commission promulgated rules requiring investor-owned utilities to itemize the fuel sources of their generated and purchased electricity. Consumer bills were required to itemize fuel and delivery costs.

2001 - The General Assembly directed the Commission to give full consideration to clean energy and energy efficient technologies when examining jurisdictional utilities' resource selection plans.

2004 - The people of Colorado approved Amendment 37, which required all utilities serving over 40,000 customers to meet certain renewable energy standards by certain identified dates.

2006 - The General Assembly directed the Commission to consider proposals by jurisdictional utilities to propose, fund and construct integrated gasification combined cycle electric generation plants, as opposed to subjecting such projects to the Commission's bidding rules.

2007 - The General Assembly doubled the renewable energy standards delineated in Amendment 37 and expanded the number and types of utilities that would be required to meet a new set of targets.

2007 - The General Assembly authorized the Commission to permit jurisdictional utilities to engage in differential ratemaking for low-income customers.

2007 - The General Assembly mandated that jurisdictional utilities more aggressively participate in demand-side management activities.

2010 - The General Assembly increased the renewable energy standard for investor-owned utilities from 20 percent to 30 percent. It also added a three percent carve-out for distributed generation, half of which is for generation behind-the-meter, such as rooftop solar.

2010 - The General Assembly authorized the development of community solar gardens which are solar facilities that can be owned or subscribed to on a cooperative basis.

2010 - The Clean Air-Clean Jobs Act mandated the early retirement of several investor-owned utility coal-fired generation units that were replaced primarily

by natural gas-fired generation and the addition of new emissions controls on several of the remaining coal-fired generation units.

2016 - The Governor re-designated the PUC as the state agency tasked with Emergency Support Function #12, which covers energy, meaning the PUC assists the Colorado Division of Homeland Security and Emergency Management, as well as the Federal Emergency Management Administration, when there is an emergency. Importantly, this function is statewide, meaning it reaches beyond those utilities falling within the Commission's regulatory jurisdiction.

2017 - The Mountain West Transmission Group (MWTG) consisting of two cooperatives, four investor-owned utilities, one municipal utility, one Colorado power authority, and two divisions of a federal power administration, that together serve loads in Colorado, Wyoming, New Mexico, Arizona, Utah and Montana, announced their intent to join the Southwest Power Pool (SPP) which is a regional transmission organization and both a real-time and day-ahead market in a 14-state region of the Midwest.

2018 - A major Colorado investor-owned utility announced its withdrawal from MWTG's effort to join the SPP.

2019 - The Commission sunset bill was amended to require utilities to develop clean energy plans that target 80 percent reduction of greenhouse gas emissions by 2030 and 100 percent reduction by 2050, relative to 2005 emissions. That same year, the General Assembly also required regulated utilities to file with the Commission transportation electrification plans.

2023 - The Commission approved the first transportation electrification plans. Additionally, the General Assembly enacted legislation to address best value employment metrics, which are intended to ensure that energy development by regulated utilities is performed by a qualified Colorado workforce. Additionally, House Bill 23-1039 required specified utilities to file resource adequacy reports to address a five-year forecast of customer load, planning reserve margin and supply and demand side resources expected to be available to serve that anticipated load.

2024 - Senate Bill 24-218 built upon earlier work on electric distribution system planning by requiring qualifying utilities to upgrade their electric distribution systems to support the state's beneficial electrification, transportation electrification and decarbonization goals and to facilitate air quality standards. In addition, the Commission approved the first demand side management/beneficial electrification plans, coordinating energy savings, greenhouse gas reductions and equity targets across electric and gas programs. Finally, the Commission updated its rules relating to community solar gardens to include interconnection requirements for community solar garden developers,

bill credit options for customers and equity considerations for disparately impacted communities.

2025 - The PUC and the state's two investor-owned electric utilities began work on wildfire mitigation planning to address planning and investment in infrastructure to increase resiliency and reduce the risk associated with wildfires. Additionally, the General Assembly revised the statutes surrounding utilities' ability to offer economic development rates to encourage new economic development and to decrease utility rates for other customers by spreading some system costs across loads that would not otherwise have located in Colorado.

NATURAL GAS

The following timeline outlines significant regulation milestones related to natural gas utilities:

1983 - The General Assembly authorized the Commission to pursue civil actions against gas utilities.

1992 - The Commission was given the power to flexibly regulate gas utilities by approving or denying applications for special rate contracts. Utilities were prohibited from subsidizing such contracts by raising the rates of other regulated utility operations.

1992 - FERC Order 636 fully implemented previous requirements that interstate gas pipelines provide gas suppliers non-discriminatory open access to transmission facilities.

1996 - The General Assembly authorized a study to assess whether retail competition in the natural gas market would benefit the state's consumers.

1999 - The General Assembly authorized, but did not require, natural gas utilities that demonstrated, among other things, that at least five other natural gas companies could offer service to customers in their respective service territories, to engage in retail competition. If such a situation arises, the Commission was authorized to promulgate rules to implement the transition to competition and to, among other things, establish standards of conduct.

2001 - The General Assembly directed the Commission to investigate the natural gas acquisition practices of jurisdictional natural gas utilities with the aim of ensuring greater long-term price stability for consumers.

2007 - The Commission approved, for the first time, an investor-owned utility's proposal for partial revenue decoupling, thereby reducing the utility's disincentive to encourage conservation.

2017 - The Commission approved updated line extension policies for allocating the cost of providing new gas service to increase the simplicity, transparency and predictability of line extension costs for gas and electric customers.

2021 - House Bill 21-1238 required each regulated gas utility to submit to the Commission a demand side management strategic issues plan to serve as platforms for the establishment of specific demand side management objectives, including setting energy savings targets, goals and financial incentive mechanisms. Senate Bill 21-264 required gas utilities with more than 90,000 retail customers to develop, file and receive approval of clean heat plans designed to achieve greenhouse gas emission reduction, the goal of which is to implement a performance standard that will allow gas utilities to use available tools, including energy efficiency, biomethane, hydrogen, recovered methane, beneficial electrification of customer end uses, cost-effective leak reductions on the utilities' distribution systems and other measures to achieve greenhouse gas emissions reductions, cost-effectiveness and equity. Finally, the Commission adopted gas infrastructure planning rules to gain insight into gas utilities' future projects and expenditures. The rules incorporated general system planning as well as recovery of system safety and integrity investments and covered clean heat planning, gas energy efficiency planning and gas infrastructure planning.

2023 - New legislation required the Commission to remove incentives for gas service to properties and provided that gas utilities do not provide applicants for service an incentive, including line extension allowances, to establish gas service at a property. Additionally, the General Assembly required gas utilities to establish gas price risk mitigation plans to establish a maximum per-month fuel rate tariff that accounts for price fluctuations based on seasonality and that protects customers from price hikes and extraordinary pricing events. Finally, following the experience of Winter Storm Uri in 2022, the General Assembly enacted Senate Bill 23-291, which required the Commission to set a ceiling for gas prices to help insulate customers from extremely high prices.

STEAM

The following timeline outlines significant regulation milestones related to steam utilities:

1983 - The General Assembly authorized the Commission to pursue civil actions against steam utilities.

1989 - The General Assembly authorized the Commission to authorize steam utilities to negotiate contracts with specific customers within their respective service territories. Utilities were prohibited from subsidizing such contracts by raising the rates of other regulated utility operations.

1992 - The General Assembly directed the Commission to flexibly regulate steam utilities by approving or denying applications for special rate contracts.

2015 - The Commission approved a steam resource plan which granted Colorado's only investor-owned steam utility permission to shut down its aging Zuni plant in Denver's Sun Valley neighborhood and granted a request to expand the capacity of the thermal plant located near Denver's Union Station.

2022 - The Commission began evaluating the long-term future of the state's sole steam system by focusing on the utility's upcoming investments, operations and cost-recovery mechanisms and evaluating how steam services are planned, managed and financed. The final resource plan, adopted in 2024, included a commitment to follow-up with more studies and modeling in the future.

GEOTHERMAL

In 1983, the General Assembly authorized the creation of geothermal heat suppliers, requiring such utilities to obtain operating permits from the Commission. Only one geothermal heat supplier has ever been granted an operating permit from the Commission. That permit was issued in 2012 and expired in 2017 without ever having been operationalized.

House Bill 23-1281 required the Commission to determine whether its rules or additional legislative changes are needed to facilitate developing thermal energy in the state.

In 2024, the Commission approved a project to explore opportunities for neighborhood-scale alternative energy projects with the requirement that geothermal solutions be included among the alternatives explored.

HYDROGEN

House Bill 23-1281 required the Commission to develop rules to establish clean hydrogen energy project requirements. These efforts are on-going.

Pipeline Safety

The following timeline outlines significant regulation milestones related to gas pipeline safety:

1970 - The General Assembly specifically authorized the PUC to cooperate with other governmental agencies, including municipalities, regarding the safety of natural gas pipelines. Natural gas gathering lines, however, were exempted from this authority.

1983 - The Commission was granted the authority to pursue civil actions against pipeline operators.

1993 - The General Assembly authorized the Commission to adopt rules to enforce and administer, in cooperation with the U.S. Department of Transportation, the provisions of the federal Natural Gas Pipeline Safety Act. The rules were limited to gas pipeline safety issues and applied to all investor-owned utilities, municipal utilities, quasi-municipal utilities and master meter systems. Additionally, the exemption for natural gas gathering lines was repealed and the Commission promulgated safety standards for gathering lines in populated areas.

2003 - The Commission's jurisdiction with respect to safety rules was expanded to include all intrastate natural gas pipelines.

2007 - The Commission asserted jurisdiction over all natural gas gathering lines in the state, including those in rural areas.

2018 - Senate Bill 18-167 enacted underground facilities location requirements.

2021 - Senate Bill 21-108 added Commission requirements and authority to the gas pipeline safety program.

2023 - House Bill 23-1216 required the Commission to develop rules regarding customer-owned service line maintenance and repairs.

2023 - Senate Bill 23-285 required the Commission to participate in intrastate pipeline study and report.

2025 - House Bill 25-1280 required the Commission to complete advanced leak detection technology and repair requirements via rulemaking by November 1, 2025.

Telecommunications

The Colorado legislature, in 1995, passed House Bill 95-1335 (HB 1335), which changed the landscape of the telecommunications industry in Colorado in a variety of ways. First, HB 1335 allowed the Commission to regulate all providers of local telecommunications services in a competitive environment to ensure that basic (universal) voice service is available to everyone in the state at fair and affordable rates. House Bill 1335 also required the Commission to review the definition of basic services every three years.

Notably, HB 1335 required local telecommunications companies to offer basic services to customers at Commission-regulated rates, except they were authorized to charge additional fees for features beyond those considered basic services.

House Bill 1335 also established the High Cost Support Mechanism (HCSM). Originally, the purpose of the HCSM was to create a funding source so that all Coloradans,

specifically those in high-cost areas, would have access to reliable basic universal voice service at affordable rates. The HCSM is funded by the customers who pay a monthly 2.6 percent surcharge on intrastate retail revenue to telecommunications providers.

In 2014, the Commission's oversight over the telecommunications industry was substantially transformed. House Bills 14-1329, 1330 and 1331 reclassified basic local exchange services from regulated telecommunications services as exempt from regulation, with certain exceptions for geographic areas that received state high-cost fund support.

Despite this deregulation, the Commission's activity related to telecommunications service has not been eliminated. Certificates of Public Necessity and Convenience, while optional for most telecommunications providers, are still requested by providers and issued by the Commission, and the Commission has regulatory responsibilities regarding numbering, switched access, certifying companies as Eligible Telecommunications Carriers, and oversight of Basic Emergency Service (the 9-1-1 network). Additionally, the Commission has been tasked by the legislature with specific telecommunications-related programs, including collection and distribution of 9-1-1, 9-8-8, and Telephone Disability Access surcharges and oversight of penal communications services. The Commission also has limited oversight of emergency telephone charge rates set by local 9-1-1 governing bodies, and it has the authority to audit providers regarding the collection and remittance of those local charges.

In 2020, House Bill 20-1293 created a 9-1-1 surcharge, assessed on a statewide basis, to supplement local emergency telephone charges authorized in section 29-11-102, C.R.S. This legislation tasked the Commission with establishing the annual 9-1-1 surcharge rate, setting the threshold above which local emergency telephone charge rates required Commission approval, and gave the Commission audit authority over not only the remittance of the state 9-1-1 surcharge but of local emergency telephone charges, as well.

Additionally, Senate Bill 21-154 established the 9-8-8 Crisis Hotline Enterprise within the Behavioral Health Administration and authorized the enterprise to assess a fee, which is now collected by the PUC and remitted to the enterprise on a monthly basis. This bill also granted the PUC the authority to conduct audits related to the collection and remittance of this fee.

Also in 2021, House Bill 21-1201 imposed reporting requirements on penal communications service providers, requiring quarterly reporting to the Commission on fees imposed upon incarcerated individuals and their families. This bill also required providers to post on their website information regarding how to file complaints with the PUC, and it directed the PUC to conduct biannual testing of the telecommunications systems provided to incarcerated individuals at all state and local carceral facilities in Colorado. Additionally, this bill defined penal communications service providers as public utilities. House Bill 23-1133 expanded the definition of penal communications services to include video and electronic mail or messaging.

In 2023, the legislature passed House Bill 23-1133, which expanded the definition of penal communications services to include video and electronic mail or messaging.

In 2024, Senate Bill 24-139 created a 9-1-1 Services Enterprise and authorized the enterprise to set a fee which the PUC is directed to collect along with the state 9-1-1 surcharge. The administration of this enterprise is assigned in the statute to the Department of Regulatory Agencies, which in turn assigned the administration to the PUC due to the PUC's existing responsibilities regarding 9-1-1 service.

Also, with the passage of House Bill 24-1234, the General Assembly continued the HCSM indefinitely.

In 2025, House Bill 25-1154 moved responsibility for the Telecom Relay Service program to the Department of Human Services (DHS). While the PUC will continue to collect the surcharge on behalf of DHS, it is no longer responsible for administering the program.

Transportation

The following timeline outlines significant regulation milestones related to the transportation industry:

1885 - The General Assembly established the Office of Railroad Commissioner with the power to investigate railroad rates and charges and to recommend, but not enforce, reasonable and just rates.

1893 - The General Assembly repealed the statute creating the Office of Railroad Commissioner.

1910 - The General Assembly created the three-member Railroad Commission.

1913 - The General Assembly passed the Public Utility Act, creating the three-member Public Utilities Commission and abolishing the Railroad Commission.

1915 - The General Assembly amended the public utilities statutes to specify that motor vehicle common carriers providing services similar to those provided by railroads were subject to Commission regulation as public utilities.

1927 - The General Assembly gave the Commission full and complete jurisdiction over all motor vehicle common carriers.

1955 - The General Assembly authorized the Commission to regulate motor vehicle commercial carriers.

1969 - The General Assembly placed ash and trash motor vehicle carriers within Commission jurisdiction.

1971 - The General Assembly placed towing carriers within Commission jurisdiction.

1980 - The General Assembly removed ash and trash motor vehicle carriers from Commission jurisdiction.

1984 - The General Assembly declared carriers of household goods to fall within the scope of public interest and subject to safety and insurance requirements.

1985 - The General Assembly exempted charter/scenic bus, courier, luxury limousine, and off-road scenic charter motor vehicle carriers from regulation as public utilities but required them to register and have adequate insurance and comply with Commission safety requirements.

1986 - The General Assembly placed transportation of hazardous materials by motor vehicle within Commission jurisdiction.

1994 - Senate Bill 94-113 relaxed the market entry requirement for taxicab companies in Colorado's 11 largest counties. As a result, instead of having a regulated monopoly, taxicab companies in these counties have regulated competition. This means that permit applicants no longer had to prove that existing service was substantially inadequate. Instead, they only had to show the need for service and their fitness to provide the service. An intervener could then show that destructive competition would result and the applicant would then have to prove that additional authority would not result in destructive competition.

1995 - Federal regulation preempted state regulation of transportation utilities that carry property within state boundaries (intrastate). The Commission no longer regulated routes, rates, or services of intrastate property carriers and household movers.

2003 - The General Assembly placed intrastate movers of household goods under the jurisdiction of the Commission and made them subject to regulation. Movers were required to provide estimates and contracts, meet safety standards, and comply with insurance, bonding or self-insurance requirements.

2003 - The Highway Crossing Protection Fund, originally created in 1965 under the Highway Users Tax Fund to pay for the costs of installing, reconstructing, and improving safety signals or devices at crossings that are not covered by federal funds, was transferred to the Commission.

2003 - Non-consensual towing rates by towing carriers, for vehicles less than 10,000 pounds, fell under the jurisdiction of the Commission to prescribe minimum and maximum rates. In addition, the Commission could require

financial statements or other information from carriers to determine costs associated with performing non-consensual tows.

2006 - Directors, officers, owners and general partners of household goods moving companies and the drivers for some passenger carriers (charter or scenic bus, fire crew transport, luxury limousine, off-road scenic charter, children's activity bus, and taxicab) were required to be fingerprinted for criminal history record checks.

2006 - The Single State Registration System (SSRS) and Interstate Exempt Registration (bingo stamp) programs expired and were replaced by the federal Unified Carrier Registration (UCR) program. The UCR program manages the collection and distribution of registration and financial responsibility information provided and fees paid by for-hire and private motor carriers, brokers, freight forwarders, and leasing companies.

2008 - As a result of a sunset review recommendation, an applicant for a taxicab operating authority no longer had to prove public need. Existing companies would have to prove that, if approved, adding an additional operating authority would harm the public.

2013 - Senate Bill 13-189 created the Moving Outreach Fund which was created to educate consumers about their rights when dealing with movers.

2014 - Colorado became the first state in the country to regulate transportation network companies. They were given broad exemptions to the laws that regulate motor carriers.

2014 - The restriction prohibiting the Commission from regulating the rates of nonconsensual towing of vehicles weighing in excess of 10,000 pounds was repealed in House Bill 14-1031.

2016 - The regulation of motor carriers that transport Medicaid patients began.

2018 - Large-market taxis were deregulated to a great extent. A company providing large-market taxicab service must have at least 25 vehicles in its fleet unless it provides service in El Paso, Larimer, or Weld Counties. If it operates in those counties, it must have 10 vehicles in its fleet.

2019 - The regulation of vehicle booting companies began by way of Senate Bill 19-236.

2020 - The regulation of carriers transporting hazardous/nuclear materials was removed from the Commission and reassigned to the Colorado Department of Transportation in Senate Bill 20-118.

2021 - The regulation of Medicaid-related transportation was removed from the Commission and reassigned to the Colorado Department of Health Care Policy and Financing in House Bill 21-1206.

2022 - The regulation of transportation network companies was expanded into school and government-related transportation, subject to Commission jurisdiction in Senate Bill 22-144. The regulation of towing carriers was expanded, including the creation of additional consumer protections for (primarily) residential nonconsensual tows in House Bill 22-1314.

2023 - The statute governing fees for motor carriers (section 40-10.1-111, C.R.S.) was revised to be more flexible, allowing the Commission to administratively set its filing/application fees in Senate Bill 23-187.

2024 - The regulation of towing carriers was further expanded, including additional restrictions for (primarily) residential nonconsensual tows in House Bill 24-1051.

Rail/Transit Safety

The following timeline outlines significant regulation milestones related to the rail and rail transit safety oversight industry:

1995 - The Interstate Commerce Commission Termination Act abolished the Interstate Commerce Commission and simultaneously created the Service Transportation Board. Intrastate railroad jurisdiction was removed from the states.

1997 - The General Assembly passed House Bill 97-1071 Regarding the Rail Fixed Guideway System Safety Oversight established PUC State Safety Oversight Program.

1998 - House Bill 98-1060 removed all intrastate jurisdiction from Title 40, C.R.S.

2016 - House Bill 16-1186 established the State Safety Oversight grant match and cap.

2019 - Senate Bill 19-236 granted fining authority to the Commission for railroads.

2021 - Senate Bill 21-238 created the Front Range Passenger Rail District.

2024 - House Bill 24-1030 established the Office of Rail Safety and the requirement for the PUC to enter into an agreement with the Federal Railroad Administration for the State Participation Program.

2025 - Senate Bill 25-162 placed the Office of Rail Safety within the PUC and established a new fee to cover costs associated with implementation.

Water

The five water utilities currently regulated by the Commission do not serve more than 1,500 households. The Commission's regulatory oversight, in each case, resulted from a complaint brought by customers receiving potable water from the company in question. Rates were already in place and in several instances the companies' proposed dramatic increases in rates "triggered" the complaint to the Commission. The following timeline outlines when the five water utilities came under Commission jurisdiction:

1996 - The first water utility came under the regulatory authority of the Commission.

1999 - An additional water utility came under the regulatory authority of the Commission.

2006 - Two additional water utilities came under the regulatory authority of the Commission.

2007 - The final water utility came under the regulatory authority of the Commission.

In 2018, Senate Bill 18-134 deregulated water companies that are registered as non-profits as long as their rates, charges and terms and conditions of service are just and reasonable. The PUC retains the right to entertain a complaint of unjust or unreasonable rates and may take remedial action.

Legal Summary

The third, fourth, fifth and seventh sunset criteria question:

Whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms;

Whether agency rules enhance the public interest and are within the scope of legislative intent;

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

A summary of the current statutes and rules is necessary to understand whether regulation is set at the appropriate level and whether the current laws are impeding or enhancing the agency's ability to operate in the public interest.

Federal Laws

The breadth and complexity of public utility regulation necessitates a network of federal laws to coordinate regulatory efforts among the states. Some significant federal legislation in the realm of public utilities includes, but is not limited to:

The **Natural Gas Pipeline Safety Act of 1968** and the **Hazardous Liquid Pipeline Safety Act of 1979** authorized the U.S. Department of Transportation's (USDOT's) Pipeline and Hazardous Material Safety Administration (PHMSA) to regulate pipeline transportation and storage of natural gases, and hazardous liquids, respectively.¹⁶

The **Public Utility Regulatory Policies Act of 1978** (PURPA) pioneered promotion of energy conservation and fostered the development of renewable energy sources by non-utility power producers.¹⁷

The **Telecommunications Act of 1996** paved the way for the deregulation of telecommunications services, including local and long distance telephone, cable, and broadcast services, by allowing communications businesses to compete against each other in any market.¹⁸

The **Unified Carrier Registration Act of 2005** eliminated the Single State Registration System (SSRS) for motor carriers and authorized the Unified Carrier Registration System, which established standard guidelines for motor carrier registration and fees.¹⁹

The **Energy Policy Act of 2005** (EPACT) set forth a research and development program encompassing a broad range of topics, including energy efficiency;

¹⁶ Congressional Research Service. *DOT's Federal Pipeline Safety Program: Background and Issues for Congress*. Retrieved August 25, 2025, from <https://www.congress.gov/crs-product/R44201>

¹⁷ Bureau of Reclamation. *Public Utility Regulatory Policies Act of 1978*. Retrieved August 25, 2025, from <https://www.usbr.gov/power/legislation/purpa.pdf>

¹⁸ Federal Communications Commission. *Telecommunications Act of 1996*. Retrieved August 25, 2025, from <https://www.fcc.gov/general/telecommunications-act-1996>

¹⁹ Federal Motor Carrier Safety Administration. *What is the Unified Carrier Registration (UCR) System and How Do I Sign Up?* Retrieved October 10, 2025, from <https://www.fmcsa.dot.gov/faq/what-unified-carrier-registration-ucr-system-and-how-do-i-sign>

renewable and alternative energy sources; and modifications to all sectors of the mainstream energy industry.²⁰

The **Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020** directed PHMSA to create new standards regarding the operation of natural gas facilities and pipelines. This includes standards regarding leak detection, and repair programs, and environmental protection. It expanded requirements for plans, procedures, and recordkeeping that apply to operators of a gas distribution system.²¹

Colorado Laws

The Public Utilities Act of 1913 provided the foundation for current public utilities law in Colorado, creating the Commission and granting the Commission authority over public utilities. Article XXV of the Colorado Constitution, enacted in 1954, grants the General Assembly the power to designate a state agency to regulate the facilities, service and rates and charges of public utilities in the state. The Constitution also formally delegates such authority to the Commission.

Title 40 of the Colorado Revised Statutes (Title 40) contains most of the laws governing the regulation of public utilities. Generally speaking, this title defines the powers and duties of the Commission; the types of utilities subject to regulation and the extent of such regulation; the obligation of the Commission to strike a balance between protecting consumers and providing utility companies the opportunity to earn a reasonable profit; the rights and responsibilities of utility companies; and establishes standards for broad policy issues relating to topics as varied as telecommunications deregulation and renewable energy standards. The following is a high-level summary of the relevant articles currently established in Title 40.

Article 1: Definitions defines some of the commonly used terms throughout Title 40²² and establishes the jurisdiction of the Commission.²³ Further, it establishes the rules for the issuance of securities²⁴ and rules surrounding master meter operators.²⁵

Article 1.1: People Service Transportation seeks to promote availability of transportation for certain populations²⁶—including people in rural areas, the elderly, and people with disabilities—by exempting transportation companies

²⁰ GovInfo. *Energy Policy Act*. Retrieved August 25, 2025, from <https://www.govinfo.gov/content/pkg/BILLS-109hr6enr/pdf/BILLS-109hr6enr.pdf>

²¹ Congress.Gov. *H.R. 133 - Consolidated Appropriations Act, 2021*. Retrieved October 3, 2025, from <https://www.congress.gov/bill/116th-congress/house-bill/133>

²² § 40-1-102, C.R.S.

²³ § 40-1-103, C.R.S.

²⁴ § 40-1-104, C.R.S.

²⁵ § 40-1-103.5, C.R.S.

²⁶ § 40-1.1-101, C.R.S.

operated by charitable or non-profit organizations²⁷ from specific portions of Title 40 and establishing more relaxed regulatory criteria.

Article 2: Public Utilities Commission—Renewable Energy Standard creates the Commission and defines its administrative structure²⁸ including the qualifications,²⁹ duties, and terms of the three Commissioners.³⁰ It also includes duties of the PUC director³¹ and staff.³² The article grants the Commission the authority to promulgate rules to administer and enforce all aspects of Title 40.³³ The article creates multiple funds to pay for the regulatory activities of the PUC such as the Motor Carrier Fund,³⁴ the Telecommunications Utility Fund,³⁵ and the Fixed Utility Fund.³⁶ The article also requires certain utilities to file distribution system plans regarding the utility's anticipated investments related to its distribution system.³⁷ Additionally, the article requires certain utilities to file clean energy plans with the Commission so it can verify that plans achieve the state's greenhouse gas emission reduction targets.³⁸

The article also lays the groundwork for the deregulation of the natural gas supply market and emphasizes the Commission's obligation to develop and use alternative (renewable) energy sources to the greatest possible extent.³⁹ It also provides rules for energy storage systems.⁴⁰

Article 3: Regulation of Rates and Charges establishes one of the primary functions of the Commission: to ensure that rates are reasonable and nondiscriminatory.⁴¹ This article authorizes the Commission to modify rates after a hearing.⁴²

Article 3.2: Air Quality Improvement Costs states that it is in the public interest to improve air quality.⁴³ To encourage utility companies to reduce the amount of air pollutants they produce, this article allows utilities to request from the Commission, recovery of costs prudently incurred to improve air quality, and authorizes the Commission to develop a means of such recovery.⁴⁴ Further, the article codifies the Clean Air-Clean Jobs Act, which seeks to reduce air

²⁷ § 40-1.1-104, C.R.S.

²⁸ § 40-2-101, C.R.S.

²⁹ § 40-2-102, C.R.S.

³⁰ § 40-2-101, C.R.S.

³¹ § 40-2-103, C.R.S.

³² § 40-2-104, C.R.S.

³³ § 40-2-108, C.R.S.

³⁴ § 40-2-110.5, C.R.S.

³⁵ § 40-2-114, C.R.S.

³⁶ § 40-2-114, C.R.S.

³⁷ § 40-2-132, C.R.S.

³⁸ § 40-2-125.5, C.R.S.

³⁹ §§ 40-2-122, -123, and -124, C.R.S.

⁴⁰ § 40-2-203, C.R.S.

⁴¹ § 40-3-101, C.R.S.

⁴² § 40-3-111, C.R.S.

⁴³ § 40-3.2-101, C.R.S.

⁴⁴ § 40-3.2-102, C.R.S.

pollutants, and provides additional flexibility to the Commission to ensure the viability of utilities that enter into long-term natural gas contracts.⁴⁵ The article also requires investor-owned gas utilities to file demand-side management plans,⁴⁶ which describe how the utility will encourage consumers to modify their level of usage. Additionally, the article requires certain utilities to file clean heat plans, which must demonstrate how the utility will use clean heat resources to meet the state’s clean heat targets.⁴⁷

Article 3.3: Gas Infrastructure Planning creates a directive to solicit interest from local governments that are served by a dual-fuel utility in becoming a gas planning pilot community.⁴⁸ A gas planning pilot community is defined as a local government in which residents have gas service provided by an active franchise agreement with the utility.⁴⁹ These provisions were added by the General Assembly in 2024.⁵⁰

Article 3.5: Regulation of Rates and Charges by Municipal Utilities grants the governing body of a municipal utility the authority to adopt all necessary rates, charges, and regulations, within the authorized electric and natural gas service areas of each municipal utility that lie outside the jurisdictional limits of the municipality.⁵¹

Article 4: Service and Equipment authorizes the Commission to establish standards for the construction, use, and maintenance of safe and adequate facilities and equipment, including railroad crossings, and to promulgate rules to enforce these standards. Additionally, the Commission must promulgate rules defining the appropriate level of service that all electric, gas and water utilities must provide.⁵²

Article 5: New Construction—Extension requires public utilities to prove a need for existing facilities to be improved before constructing a new facility or extending an existing facility. The article requires a public utility to obtain a certificate of public convenience and necessity, which grants a public utility the right to serve customers in a specific geographic region.⁵³ In 2020, the General Assembly added a provision to this article directing the Commission to create a program allowing public utilities to create facilities to service electric vehicles based on the area covered by the utility's certificate of public convenience and

⁴⁵ § 40-3.2-202, C.R.S.

⁴⁶ § 40-3.2-103, C.R.S.

⁴⁷ § 40-3.2-108, C.R.S.

⁴⁸ § 40-3.3-102, C.R.

⁴⁹ § 40-3.3-101, C.R.S.

⁵⁰ House Bill 24-1370: Reduce Cost of Use of Natural Gas

⁵¹ § 40-3.5-102, C.R.S.

⁵² §§ 40-4-101 *et seq.*, C.R.S.

⁵³ §§ 40-5-101 *et seq.*, C.R.S.

necessity.⁵⁴ The article also requires certain utilities to file transportation-electrification plans with the Commission.⁵⁵

Article 6: Hearings and Investigations authorizes the Commission to conduct hearings and investigations and defines the procedures to be followed by all parties during the hearings process.⁵⁶ The article establishes standards of conduct for staff and Commissioners, including the rules for conflict of interest.⁵⁷ It also contains rules regarding *ex parte* communications.⁵⁸

Article 7: Enforcement—Penalties lays out penalties the Commission may impose on public utilities that violate the law.⁵⁹

Article 7.5: Civil Remedies Available to Utilities states a public utility that incurs damages or losses due to bypassing, tampering, or unauthorized metering can bring a civil action against any person directly or indirectly responsible.⁶⁰

Article 8: Unclaimed Funds for Overcharges authorizes the Commission to determine how overcharges should be returned to utility customers.⁶¹

Article 8.5: Unclaimed Utility Deposits creates the legislative commission on Low-Income Energy Assistance in the Colorado Energy Office,⁶² which is charged with defraying energy costs for disadvantaged populations by collecting monies, including a portion of unclaimed utility deposits, for the Low-Income Energy Assistance Fund and distributing such monies to eligible recipients.⁶³

Article 8.7: Low-Income Energy Assistance creates programs responsible for collecting optional water and energy assistance contributions from utility consumers and distributing the monies to low-income energy assistance programs.⁶⁴ Electric utilities that provide retail service to their customers are required to serve as collection agents for these programs, must allow their customers a means to contribute to the programs, and are reimbursed for the cost of collecting the contributions.⁶⁵

Article 9: Carriers Generally applies to transportation within the state's borders,⁶⁶ and addresses common carriers' liability for property loss or damage,

⁵⁴ Senate Bill 19-077: Electric Motor Vehicles Public Utility Services

⁵⁵ § 40-5-107, C.R.S.

⁵⁶ §§ 40-6-101 *et seq.*, C.R.S.

⁵⁷ § 40-6-123, C.R.S.

⁵⁸ § 40-6-122, C.R.S.

⁵⁹ §§ 40-7-101 *et seq.*, C.R.S.

⁶⁰ § 40-7.5-102, C.R.S.

⁶¹ §§ 40-8-101, *et seq.*, C.R.S.

⁶² § 40-8-103.5, C.R.S.

⁶³ §§ 40-8.5-101, *et seq.*, C.R.S.

⁶⁴ §§ 40-8.7-104, *et seq.*, C.R.S.

⁶⁵ § 40-8.7-105, C.R.S.

⁶⁶ § 40-9-101, C.R.S.

or injury to a person;⁶⁷ the duty of common carriers to exercise utmost diligence in the transportation of shipments;⁶⁸ and the procedures railroads must follow in the event of an accident.⁶⁹

Article 9.5: Cooperative Electric Associations authorizes member-owned electric associations to elect exemption from Commission regulation.⁷⁰ The article establishes requirements for the governance and administration of all cooperative electric associations and defines their duties⁷¹ and prohibited acts.⁷² The article clarifies the service territories' relationship between such cooperatives and municipalities that operate electric utilities.⁷³

Article 9.8: Microgrids for Community Resilience was added by the General Assembly in 2022.⁷⁴ It creates a grant program to develop microgrids in rural communities to prevent severe electric grid disruptions.⁷⁵

Article 10.1: Motor Carriers describes the powers of the Commission to regulate the motor carrier industry⁷⁶ and defines exceptions to motor carrier regulations.⁷⁷ The article further outlines the applicable permit and certification processes and requirements for motor carriers of passengers,⁷⁸ motor carriers of towed motor vehicles,⁷⁹ motor carriers of household goods,⁸⁰ transportation network companies,⁸¹ large-market taxicab services,⁸² and vehicle booting companies.⁸³

Article 10.5: Unified Carrier Registration System prohibits any entity subject to the federal Unified Carrier Registration Act from operating on any public highway in the state without first registering with the U.S. Department of Transportation and vests the Commission with the authority to administer the Unified Carrier Registration System in Colorado, and to promulgate rules to that end.⁸⁴

⁶⁷ § 40-9-103, C.R.S.

⁶⁸ § 40-9-105, C.R.S.

⁶⁹ § 40-9-108, C.R.S.

⁷⁰ § 40-9.5-103, C.R.S.

⁷¹ § 40-9.5-107, C.R.S.

⁷² § 40-9.5-106, C.R.S.

⁷³ § 40-9.5-203, C.R.S.

⁷⁴ House Bill 22-1013: Microgrids For Community Resilience Grant Program

⁷⁵ § 40-9.8-102, C.R.S.

⁷⁶ § 40-10.1-102, C.R.S.

⁷⁷ § 40-10.1-105, C.R.S.

⁷⁸ §§ 40-10.1-201 and -301, *et seq.*, C.R.S.

⁷⁹ §§ 40-10.1-401, *et seq.*, C.R.S.

⁸⁰ §§ 40-10.1-501, *et seq.*, C.R.S.

⁸¹ §§ 40-10.1-601, *et seq.*, C.R.S.

⁸² §§ 40-10.1-701, *et seq.*, C.R.S.

⁸³ §§ 40-10.1-801, *et seq.*, C.R.S.

⁸⁴ § 40-10.5-102, C.R.S.

Article 11.5: Independent Contractors - Motor Carriers allows motor vehicle carriers and contract motor carriers to use independent contractors,⁸⁵ and sets forth the provisions lease agreements may contain.⁸⁶

Article 15: Intrastate Telecommunications Services seeks to create a flexible regulatory environment for telecommunications services that encourages competition while assuring the public a wide availability of high-quality telecommunications services.⁸⁷ Part 1 defines key terms, differentiates between regulated and unregulated services, outlines methods for calculation of rates and charges, and prohibits telecommunications companies from changing customers' telephone service without their consent ("slamming") and from charging customers for extra services they did not request ("cramming"). Part 2 addresses the regulation of basic emergency service. Part 2 also creates the High Cost Support Mechanism (HCSM) to help fund the expansion of telephone and broadband services into remote or high-cost areas. Part 3 authorizes a more flexible regulatory treatment for emerging competitive telecommunications services, which are defined as those services subject to future deregulation. Part 4 addresses services, products and providers that are exempt from regulation generally. Part 5 directs the Commission to encourage competition and the development of alternate, interim regulatory mechanisms with the ultimate goal of implementing a fully competitive telecommunications marketplace. Part 6 was added by the General Assembly in 2019⁸⁸ and concerns the installation and easements of broadband internet service facilities.

Article 17: Telephone Disability Access establishes the service standards for telephone relay services and creates surcharges to fund these services.⁸⁹

Article 17.5: 9-8-8 Surcharge and Prepaid Wireless 9-8-8 Charge for the 9-8-8 Crisis Hotline was added by the General Assembly in 2021.⁹⁰ It creates a three-digit number to be used as a suicide prevention and crisis hotline,⁹¹ and creates a mechanism to fund these services.⁹²

Article 18: Rail Fixed Guideway System Safety Oversight authorizes the Commission to create an oversight program for rail fixed guideway systems not subject to federal regulation,⁹³ and to promulgate rules governing these systems.⁹⁴

⁸⁵ § 40-11.5-101, C.R.S.

⁸⁶ § 40-11.5-102, C.R.S.

⁸⁷ § 40-15-101, C.R.S.

⁸⁸ Senate Bill 19-107: Broadband Infrastructure Installation

⁸⁹ §§ 40-17-101, *et seq.*, C.R.S.; House Bill 25-1154: Communication Services People with Disabilities Enterprise

⁹⁰ Senate Bill 21-154: 988 Suicide Prevention Lifeline Network

⁹¹ § 40-17.5-101, C.R.S.

⁹² § 40-17.5-102, C.R.S.

⁹³ § 40-18-102, C.R.S.

⁹⁴ § 40-18-103, C.R.S.

Article 20: Organization and Government addresses the governance and administration of railroad corporations.⁹⁵ In 2024, the General Assembly added additional guidelines regarding railroad safety.⁹⁶

Article 21: General Offices sets forth requirements for the headquarters of domestic railroads.⁹⁷

Article 22: Consolidation sets forth the circumstances under which a railroad company may consolidate its capital stock, franchises, and property into and with the capital stock, franchises, and property of any other railroad company.⁹⁸

Article 23: Reorganization enshrines the right for railroad companies to reorganize.⁹⁹

Article 24: Electric and Street Railroads determines right-of-way issues and requires railroads to keep bridges and crossings in good repair.¹⁰⁰

Article 27: Killing Stock - Fencing clarifies the rights and responsibilities of both landowners and railroad companies in preventing the accidental killing of livestock on railroad tracks.¹⁰¹

Article 29: Safety Appliances sets forth the standards for railroad safety devices and the penalties for failure to meet those standards.¹⁰²

Article 30: Fire Guards requires railroad companies to maintain fire guards alongside tracks,¹⁰³ sets forth the penalties for failure to do so,¹⁰⁴ and establishes the liability of the railroad company in the event of a fire.¹⁰⁵

Article 31: Overcharges establishes the method by which overcharges are refunded to customers.¹⁰⁶

Article 32: Employees permits railroads to employ peace officers¹⁰⁷ on trains and defines the scope of such peace officers' duties.¹⁰⁸

⁹⁵ §§ 40-20-101, *et seq.*, C.R.S.

⁹⁶ §§ 40-20-301, *et seq.*, C.R.S.; House Bill 24-1030: Railroad Safety Requirements

⁹⁷ §§ 40-21-101, *et seq.*, C.R.S.

⁹⁸ §§ 40-22-101, *et seq.*, C.R.S.

⁹⁹ §§ 40-24-101 to -102, C.R.S.

¹⁰⁰ § 40-24-101, *et seq.*, C.R.S.

¹⁰¹ §§ 40-27-101, *et seq.*, C.R.S.

¹⁰² §§ 40-29-101, *et seq.*, C.R.S.

¹⁰³ § 40-30-101, C.R.S.

¹⁰⁴ § 40-30-102, C.R.S.

¹⁰⁵ § 40-30-103, C.R.S.

¹⁰⁶ §§ 40-31-101, *et seq.*, C.R.S.

¹⁰⁷ § 40-32-104.5, C.R.S.

¹⁰⁸ § 40-32-106 and -107, C.R.S.

Article 33: Damage to Employees holds a railroad corporation liable for the injury of its employees if such injury occurred due to the negligence of the corporation's officers, agents, or employees, or due to any defect or insufficiency caused by the corporation's negligence.¹⁰⁹

Article 41 Colorado Energy Bond Impact Act creates a process for electric utilities to finance the retirement of fossil-fuel-powered generation facilities and transition to renewable energy sources by issuing low-cost corporate securities.¹¹⁰

Article 42 Colorado Electric Transmission Authority Act was added by the General Assembly in 2021.¹¹¹ It authorizes the Colorado Electric Transmission Authority to approve applications from utilities to build new transmission facilities that would assist the utilities in meeting the state's clean energy goals.¹¹²

Article 43 Electric Resource Adequacy was added by the General Assembly in 2023.¹¹³ It requires cooperative electric associations and municipal utilities to create an annual report on their resource adequacy.¹¹⁴

Colorado Rules

The **Rules and Regulations (Rules)** are divided into nine parts.

Part 1: Rules of Practice and Procedure provide guidance on multiple aspects of the Commission's administrative activities; sets forth instructions for the treatment of confidential¹¹⁵ and personal information¹¹⁶ in Commission proceedings; prohibits certain communications¹¹⁷ and establishes disclosure requirements for others; and delineates the procedure for all proceedings before the Commission.¹¹⁸

Parts 2 through 8 and 11 address the following for each specific industry area: types of authorities requiring application to the Commission and the rights and obligations that come with such authorities; the reporting process for "major events" (e.g., outages); standards for the maintenance of facilities and equipment and quality of service; required information that companies must display on customers' bills; and methodology for calculating rates and charges.

¹⁰⁹ § 40-33-101, C.R.S.

¹¹⁰ §§ 40-41-101, *et seq.*, C.R.S.

¹¹¹ Senate Bill 21-072 Public Utilities Commission Modernize Electric Transmission Infrastructure

¹¹² §§ 40-42-101, *et seq.*, C.R.S.

¹¹³ House Bill 23-1039: Electric Resource Adequacy Reporting

¹¹⁴ § 40-43-104, C.R.S.

¹¹⁵ 4 CCR § 723-1-1101, Rules of Practice and Procedure.

¹¹⁶ 4 CCR §§ 723-1-1104 and -1105, Rules of Practice and Procedure.

¹¹⁷ 4 CCR § 723-1-1106, Rules of Practice and Procedure.

¹¹⁸ 4 CCR §§ 723-1-1200, *et seq.*, Rules of Practice and Procedure.

In addition, the Rules address the following notable issues:

Part 2: Rules Regulating Telecommunications Services And Providers Of Telecommunications Services identifies the default forms of regulation for each service and includes guidance for the administration¹¹⁹ of the HCSM.

Part 3: Rules Regulating Electric Utilities outlines the resource planning process;¹²⁰ provides guidance for utilities in implementing the renewable energy standard¹²¹ as well as the Low-Income Energy Assistance Act.¹²²

Part 4: Rules Regulating Gas Utilities establishes specific rules for gas utilities and introduces the gas cost adjustment, which allows utilities an expedited process for changing rates to reflect increases or decreases in gas commodity and upstream costs. It also requires gas utilities to file gas infrastructure plans, which are detailed proposals outlining the need for upgrades to gas systems.¹²³

Part 5: Rules Regulating Water, and Combined Water and Sewer Utilities provides rules related to water, and lays out five options¹²⁴ available to small, privately owned water companies seeking simplified regulatory treatment.

Part 6: Rules Regulating Transportation by Motor Vehicle establishes the permit requirements and any applicable rules for regulated intrastate carriers,¹²⁵ limited regulation carriers,¹²⁶ unified carriers,¹²⁷ towing carriers,¹²⁸ movers,¹²⁹ transportation network companies,¹³⁰ and large market taxicab services.¹³¹

Part 7: Rules Regulating Railroads, Rail Fixed Guideways, Transportation By Rail, and Rail Crossings provides extensive guidance on the design and construction of safety crossings and warning devices and explains cost-allocation methodology; and compels every transit company to develop a public transportation agency safety plan.¹³²

Part 8: Rules Regulating Steam Utilities addresses matters relating to jurisdictional steam utilities.¹³³

¹¹⁹ 4 CCR §§ 723-2-2840, *et seq.*, Rules Regulating Telecommunications Services And Providers Of Telecommunications Services.

¹²⁰ 4 CCR §§ 723-3-3600, *et seq.*, Rules Regarding Electric Utilities.

¹²¹ 4 CCR §§ 723-3-3650, *et seq.*, Rules Regarding Electric Utilities.

¹²² 4 CCR § 723-3-3411, Rules Regarding Electric Utilities.

¹²³ 4 CCR § 723-4, Rules Regulating Gas Utilities.

¹²⁴ 4 CCR § 723-5-5112, Rules Regulating Water, and Combined Water and Sewer Utilities.

¹²⁵ 4 CCR §§ 723-6-6200, *et seq.*, Rules Regulating Transportation by Motor Vehicle.

¹²⁶ 4 CCR §§ 723-6-6300, *et seq.*, Rules Regulating Transportation by Motor Vehicle.

¹²⁷ 4 CCR §§ 723-6-6400, *et seq.*, Rules Regulating Transportation by Motor Vehicle.

¹²⁸ 4 CCR §§ 723-6-6500, *et seq.*, Rules Regulating Transportation by Motor Vehicle.

¹²⁹ 4 CCR §§ 723-6-6600, *et seq.*, Rules Regulating Transportation by Motor Vehicle.

¹³⁰ 4 CCR §§ 723-6-6700, *et seq.*, Rules Regulating Transportation by Motor Vehicle.

¹³¹ 4 CCR §§ 723-6-6800, *et seq.*, Rules Regulating Transportation by Motor Vehicle.

¹³² 4 CCR § 723-7, Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings.

¹³³ 4 CCR § 723-8, Rules Regulating Steam Utilities.

Part 11: Rules Regulating Pipeline Operators and Gas Pipeline Safety addresses matters related to the requirements for the safe operation of jurisdictional gas pipeline facilities.¹³⁴

¹³⁴ 4 CCR § 723-11, Rules Regulating Pipeline Operators And Gas Pipeline Safety.

Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The fifth, sixth and seventh sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

Whether an analysis of agency operations indicates that the agency or the agency's board or commission performs its statutory duties efficiently and effectively; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

Article XXV of the Colorado Constitution creates the Public Utilities Commission (Commission) and vests it with the authority to regulate public utilities. Title 40, C.R.S., places the Commission, a Type 1 entity, within the Department of Regulatory Agencies (DORA).¹³⁵ This act also establishes the agency's structure, jurisdiction, and procedures.

To fulfill its mission, the Commission performs both quasi-judicial functions, such as presiding over contested matters and assuring due process for all parties, and quasi-legislative functions, such as promulgating rules. Since almost all Colorado citizens are also utility customers, the Commission has formidable reach.

"Fixed utilities" are utilities that do not move: gas, electrical, telecommunications, steam, and water. Currently the Commission has regulatory authority over:

- 129 local exchange carriers
- 13 penal communications service providers
- 1 basic emergency service (9-1-1 network) provider
- 23 railroads and transit systems
- 2 investor-owned electric utilities
- 4 investor-owned natural gas distribution companies
- 1 investor-owned propane distribution company
- 4 investor-owned water utilities
- 1 investor-owned steam utility

¹³⁵ § 40-2-101(1)(a), C.R.S.

The Commission has partial regulatory oversight over:

- 276 Voice over Internet Protocol (VoIP) service providers
- 2 municipal utilities
- 1 cooperative electric association

The Commission has jurisdiction over intrastate pipelines, including approximately:

- 39,063 miles of gas distribution lines
- 2,840 miles of gas transmission lines
- 5,334 miles of regulated gas gathering lines

The Commission has safety jurisdiction over natural gas pipeline operators comprised of:

- 7 private gas distribution systems
- 9 municipal gas distribution systems
- 14 master metered gas distribution systems
- 5 liquid petroleum distribution systems
- 22 private gas transmission systems
- 52 private gas gathering systems

The Commission has full regulatory jurisdiction, including rates and schedules, over the following transportation carriers:

- 145 common carriers (including taxi, shuttle, charter, and sightseeing services)
- 26 contract carriers
- 203 household good movers

The Commission has safety jurisdiction over 1,810 additional transportation carriers.

The Commission consists of three full-time, salaried Commissioners appointed by the Governor with the consent of the Senate,¹³⁶ designating one Commissioner as chair.¹³⁷ Commissioners currently serve in staggered, four-year terms¹³⁸ and are prohibited from holding any outside employment during this period.¹³⁹ Commissioners must be qualified electors and no more than two may be affiliated with the same political party.¹⁴⁰

The Commission meets at least weekly. At the Commissioners' weekly meetings, the Commission conducts routine business, such as referring docketed items to administrative law judges (ALJs) for resolution; approving interconnection agreements

¹³⁶ § 40-2-101(1)(b), C.R.S.

¹³⁷ § 40-2-101(2), C.R.S.

¹³⁸ § 40-2-101(1)(b), C.R.S.

¹³⁹ § 40-2-101(2), C.R.S.

¹⁴⁰ *Id.*

and railroad safety crossings; and considering uncontested applications, as well as applications to discontinue service, transfer assets, or make changes to existing tariffs. Commissioners may also, at their discretion, schedule “deliberative meetings” for more in-depth discussion of issues that would normally be handled at a weekly meeting. Commission meetings are open to the public and must be given full and timely notice pursuant to Colorado’s open meetings law.

Since March 2003, the Commission has been broadcasting audio and video of its meetings live over the internet. Starting in 2023, the Commission began broadcasting meetings over YouTube. All meetings are available live and are archived for future viewing. The majority of the Commission’s meetings are held virtually. Once a month, the Commission holds an in-person weekly meeting, at which the Commission allows for both virtual and in-person public comments.

The Commission may host informational sessions on emerging topics related to public utilities and hold town hall meetings around the state to solicit feedback from utility customers.

The staff of the Commission is responsible for carrying out the agency’s regulatory activities, which include:

- Evaluating applications,
- Issuing permits and registrations,
- Conducting financial and engineering plans and analyses,
- Performing inspections and audits,
- Resolving complaints between consumers and utilities, and
- Enforcing compliance with Commission statutes and rules.

Funding

The Commission is cash funded: regulated utilities themselves pay annual fees to finance the Commission’s regulatory activities.

Every year, fixed utilities must report any gross intrastate annual operating revenues to the Department of Revenue (DOR).¹⁴¹ The Executive Director of DOR computes the amount of fees required to be paid by each utility to cover the administrative costs associated with regulation based on a percentage of their reported revenues.¹⁴² DOR cannot require a telecommunications company to pay more than 0.2 percent of its gross intrastate utility operating revenues and cannot require any other utility to pay more than 0.25 percent. Each utility pays the total fee to the DOR in equal quarterly installments.¹⁴³

¹⁴¹ § 40-2-111, C.R.S.

¹⁴² § 40-2-112(1), C.R.S.

¹⁴³ § 40-2-113, C.R.S.

The State Treasurer allocates the fees collected by DOR. Three percent of the fees are split three ways:

- A portion of the three percent, currently up to \$150,000, is directed to the rail fixed guideway system safety oversight;
- A portion of the three percent, currently up to \$240,000 with two percent growth per year, is directed to a Highway-Rail Crossing Signalization Fund; and
- Any remaining fees are sent to the General Fund.

Of the remaining fees collected by DOR, the State Treasurer credits fees paid by telecommunications companies to the Telecommunications Utility Fund, and the fees paid by other public utilities to the Fixed Utilities Fund.¹⁴⁴

The process is much simpler for motor carriers. Motor carriers, except Household Goods Movers and Unified Carrier Registration System (UCR) registrants, operate under a permit or certificate issued by the Commission. Each must pay a \$45 annual identification fee per vehicle, which is credited to the Motor Carrier Fund.

During each regular session, the General Assembly determines the amount of money needed to finance the Commission's administrative expenses for the regulation of motor carriers, telecommunications providers, and fixed utilities and authorizes an appropriation from the appropriate fund.¹⁴⁵

Table 1 shows the total program expenditures and staffing levels for the four fiscal years indicated.

Table 2
Total Program Expenditures

	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
Total Program Expenditures	\$ 15,734,405	\$17,138,176	\$ 18,894,531	\$ 22,757,107	\$ 24,395,970
Total Full-Time Equivalent (FTE) Employees	85	92	100	112	110

As noted in the table, there was an increase in expenditures during the period examined which corresponds with an increase in staffing. Notably, there was a significant amount of legislation that added duties to the PUC during the fiscal years examined.

The Executive Director of DORA appoints a PUC Director (Director), who oversees the agency's allocated employees. The Director is further charged with managing the

¹⁴⁴ § 40-2-114, C.R.S.

¹⁴⁵ § 40-2-110, C.R.S.

operations of the PUC and implementing its policies and decisions.¹⁴⁶ Because of the large scope of utilities and the complexity of the Commission's regulatory activities, the Director employs professionals with specific expertise, including engineers, economists, and financial analysts. The Director also employs ALJs and support staff to help fulfill the Commission's quasi-judicial role.

The office of the Director also includes an operations manager, an affordability program manager, a program assistant and an executive assistant, for a total of 4.0 full-time equivalent (FTE) employees.

Also reporting to the Director is the Research and Emerging Issues unit with 5.0 FTE. This unit works directly with Commissioners, conducting research on topics related to utility regulation.

There also exists the Commission's Communications Manager and the External Affairs unit, which uses 5.0 FTE. This unit resolves complaints between customers and regulated entities and informs the public about Commission decisions and ratepayer issues via community outreach.

Three deputy directors and the Chief ALJ, who report to the Director, oversee the following sections:

- **Public Safety.** This section includes the following units:
 - The **Transportation** unit (15.0 FTE) regulates the affordability and availability of motor carriers transporting passengers for hire. The unit conducts inspections, ensures rates and service meet acceptable standards, and issues permits.
 - The **Rail and Transit** unit (6.0 FTE) is responsible for regulatory activities relating to rail utilities. This unit conducts on-site safety inspections, accident investigations, and audits.
 - The **Gas Pipeline Safety** unit (12.0 FTE) ensures the safety of gas pipelines, by conducting gas pipeline safety inspections and accident investigations.
- **Fixed Utilities.** This section includes the following units:
 - The **Energy** unit (12.0 FTE) is responsible for regulatory activities relating to electric, gas, water, and steam utilities. Its responsibilities include conducting gas volume and compliance audits, producing energy supply and demand forecasts, and ensuring rates and service meet acceptable standards.

¹⁴⁶ § 40-2-103(1), C.R.S.

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- The **Economics** unit (10.0 FTE) performs economic analysis of all regulated utilities.
 - **Policy and Research Support.** This section includes the following units:
 - The Telecommunications unit (8.0 FTE) is responsible for retail and wholesale telecommunications regulatory activities, including evaluating rates and conducting financial and engineering analyses. The Telecommunications unit also administers the Telecom Relay Service, the Colorado High Cost Support Mechanism, the 911 Taskforce and statewide numbering including 9-8-8 services.
 - The **Commission Advisors** (10.0 FTE) provide recommendations, policy analysis, and technical training to Commissioners and ALJs.
 - The **Administrative Support** unit (2.0 FTE) is responsible for business system administration, decision editing, management of the Commission's agendas, minutes, noticing, and administrative support.
 - **Administrative Hearings.** This section (12.0 FTE) consists of ALJs, legal assistants, and certified court reporters. The section is responsible for conducting hearings and issuing recommended decisions.

Because of the sophisticated technical knowledge many regulatory activities require, the Commission's decision-makers—the Commissioners and ALJs—rely on staff subject matter experts—such as engineers, economists, and financial analysts—for guidance in adjudicated proceedings. It would be improper for a staff member who drafted a formal complaint against a utility to provide information affecting the complaint's disposition to the decision-makers. To address this potential conflict of interest, an important distinction is made between trial staff and advisory staff in contested proceedings:

- **Trial staff** advocates for specific positions in litigated proceedings. Trial staff are prohibited from advising decision-makers on issues relevant to that proceeding.
- **Advisory staff** provides subject-matter expertise, technical advice, and options to decision-makers.

The Director designates which staff members will serve as trial and advisory staff.¹⁴⁷

¹⁴⁷ 4 CCR § 723-1-1007(a), Rules of Practice and Procedure.

Formal Proceedings

A formal adjudication before the Commission is called a proceeding. Each proceeding—which can be related to an application or petition, formal complaint, advice letter/tariff filing, or rulemaking—is assigned a unique number that it retains from inception to resolution. This allows staff to keep track of responses and testimony for complex matters that may stretch over a period of many months. There may be more than one decision for a single proceeding and often there are a number of related decisions for a specific proceeding prior to it being finally closed. These final written decisions made by Commissioners and ALJs form the core of the agency’s work.

Table 3 shows the number of decisions issued by Commissioners and ALJs over the five calendar years indicated.

Table 3
Commission Decisions

Category	2020	2021	2022	2023	2024
Commissioners	570	578	527	544	478
ALJs	399	268	336	368	430
Total	969	846	863	912	908

Despite a slight decrease during the COVID-19 pandemic, the total number of Commission decisions remained relatively stable throughout the period examined.

The Commission can refer rulemaking and adjudicatory matters to ALJs for initial review and analysis, although it may elect to hear a matter itself.¹⁴⁸ If a matter is referred to an ALJ, the ALJ issues a recommended decision, which they transmit to the Commission. Upon review, the Commission may adopt, modify, or reject the findings of fact or conclusions of the recommended decision.¹⁴⁹

Contested proceedings that are held before the Commission or an ALJ are held “on the record.” They are conducted in compliance with Colorado Rules of Civil Procedure, section 40-6-101, C.R.S., *et seq.*, and Part 1 of the Commission’s Rules and Regulations. All hearings are recorded by a court reporter. In the event of an appeal or exceptions filed to a recommended decision, the requesting party must order the appropriate transcripts, which become part of the record.

Rulemaking proceedings are a critical function of the Commission. The Commission is charged with promulgating rules to enforce all aspects of Title 40, C.R.S. Changes in federal or state laws, evolving perspectives on energy policy, technological advances, and a multitude of other issues can precipitate a rulemaking proceeding.

¹⁴⁸ § 40-6-101(2)(b), C.R.S.

¹⁴⁹ § 40-6-109(2), C.R.S.

Table 4 shows, for the five calendar years indicated, the number of rulemaking proceedings held for each industry area.

Table 4
Rulemaking Proceedings by Industry

Category	2020	2021	2022	2023	2024
Natural Gas	0	2	0	0	1
Electric	1	0	2	2	3
Water	0	0	1	0	0
Telecommunications	2	5	1	3	3
Transportation	1	4	3	1	4
Electric/Gas	2	1	1	1	5
Railroad	0	2	1	1	3
Practice & Procedure	0	1	0	0	0
Gas Pipeline Safety	0	0	1	0	1
Total	6	15	10	8	20

Transportation and telecommunications, followed by Electric/Gas, made up the dominant categories of rulemaking proceedings. Water, Gas Pipeline Safety, and Natural Gas made up the fewest amount of rulemaking proceedings.

Rate cases may occur when a utility seeks Commission approval to change the rates its customers pay for their utility service. The process begins at least 30 days before the effective date of the proposed rate change, when the utility files an advice letter (request) and the proposed new tariffs (price list with terms and conditions) with the Commission.¹⁵⁰ Typically, the utility is requesting to increase its revenues because of an earnings shortfall. A key principle of utility regulation is that because utilities provide a vital service to the public, they are entitled to a certain rate of return on equity. The Commission is responsible for assuring that utilities have the opportunity to earn a reasonable rate of return, while at the same time ensuring that rates are “just and reasonable” for customers.¹⁵¹

If the Commission finds the rates acceptable, they are allowed to go into effect by operation of law after a hearing. If the Commission determines that the new rates are in any way unjust, unreasonable, or discriminatory, or that they are insufficient, the Commission determines what the appropriate rates should be.¹⁵²

Large rate cases are typically split into two phases. During Phase 1, the Commission determines the overall total dollar amount the utility is entitled to recover. During Phase 2, the utility proposes how much to increase the rates for its various classes of

¹⁵⁰ § 40-3-104(1)(a), C.R.S.

¹⁵¹ § 40-3-101(1), C.R.S.

¹⁵² § 40-3-111(1), C.R.S.

customers—e.g., residential, commercial, and agricultural—in order to recover the Commission-approved overall revenue level determined in Phase 1.

Because of the sweeping impact of increases to utility rates, rate cases typically generate a great deal of interest. Individual customers can provide feedback during public comment hearings, and consumer groups and professional associations may elect to be represented by counsel and participate in the formal hearing as parties.

Table 5 shows the number of rate cases held in the five calendar years indicated.

Table 5
Rate Case Activity

	2020	2021	2022	2023	2024
Fixed Utilities					
Rate and price changes filed	118	166	159	182	142
Rates suspended and cases heard	10	4	12	12	9
Money saved consumers	\$ 166,413,644	\$ 120,470,892	\$ 331,007,187	\$ 339,879,477	\$ 483,232,584
Transportation					
Rate and price changes filed	32	43	56	48	46
Rates suspended and cases heard	0	6	0	0	0

The number of rate and price changes filed for fixed utilities increased in 2021 and 2023 and decreased significantly in 2024. The number of filings each year varies based on when utilities decide to seek updated cost recovery.

Compared with the total number of rate cases filed with the Commission, the number of rate changes suspended and set for hearing is very low. This means that most rate cases filed with the Commission are not contested by the Commission staff or any other party. Uncontested rate changes are simply allowed to go into effect.

The figures in the “Money Saved Consumers” row reflect the projected difference between the rates filed with the Commission and the rates that were ultimately approved. The amount of savings significantly increased throughout the period examined. The amount of savings depends on the number and the size of rate cases taking place each year. The PUC does not track this figure for transportation filings.

In 2021, six transportation cases were suspended. These all related to entities involved in medical transportation. Regulation of these entities was transferred to the Department of Health Care Policy and Financing, hence the suspension of their existing cases with the Commission.

Licensing

The eleventh and twelfth sunset criteria question whether the scope of practice of the regulated occupation contributes to the optimum use of personnel and whether entry requirements encourage equity, diversity and inclusivity.

In part, COPRRR utilizes this section of the report to evaluate the program according to these criteria.

In General

One of the primary functions of the Commission is to authorize companies to provide service as public utilities. Such authority is granted via one of the following documents.

- Companies seeking to provide gas, electric, water, or regulated telecommunications services (pursuant to Part 2 of Article 15 of Title 40, C.R.S.) must first secure a Commission order stating the present or future public convenience and necessity requiring such service. This order, a **certificate of public convenience and necessity** (CPCN), grants a company the right to provide specific services to customers in a defined geographical region.¹⁵³
- Motor carriers seeking to operate as common carriers¹⁵⁴ — meaning those intending to provide transportation indiscriminately to all customers, such as TNCs — must also apply for a CPCN.¹⁵⁵ Those seeking to operate as contract carriers—for example, someone wishing to operate an employee shuttle bus for a certain company—apply for a **contract carrier permit**.¹⁵⁶

In addition to the request for initial authority to provide utility service, companies must apply to the Commission for a variety of other reasons. These reasons vary considerably across each industry, but typical applications for fixed utilities include those to amend or transfer a CPCN; to change the boundaries of a service area; to implement a change in tariffs outside the timeline dictated by statute; to change, extend, or discontinue any service or facility; to issue securities for the purpose of funding a long-term capital project; and to approve a refund plan or resource plan. Typical applications for contract and common carriers include those for a temporary, emergency, or seasonal authority; and to suspend or abandon a CPCN.

¹⁵³ § 40-5-102, C.R.S.

¹⁵⁴ § 40-1-102(3)(a), C.R.S.

¹⁵⁵ § 40-10.1-101(2), C.R.S.

¹⁵⁶ § 40-10.1-101(6), C.R.S.

Most applications submitted by fixed utilities and motor carriers follow essentially the same process.

1. **Entity files an application.** Applicants file required documentation with the Commission either via a legal pleading or using forms provided by the PUC. The Rules for each utility type specify the required documentation.
2. **Application is logged and posted.** Intake staff logs the application, assigns it a proceeding number, and processes it through the PUC's E-filings System. The required notice period varies depending on the type of application but is typically 15 to 30 days. Securities filings, considered business-critical because of potential fluctuation in interest rates, are placed on a particularly accelerated time schedule: the Commission must issue a decision on the application within 30 days of receipt.¹⁵⁷
3. **During the notice period, interested parties apply for intervention.** An intervention occurs when a person or entity with an interest in the outcome of the proceeding seeks to become part of a docketed matter. There are two types of interventions:
 - a. **Interventions as of right** occur when a party has a legally protected right that might be affected by the proceeding.¹⁵⁸ PUC staff can intervene by right in any proceeding.¹⁵⁹ The Colorado Office of the Utility Consumer Advocate (UCA) and the Colorado Energy Office can intervene by right in energy proceedings.
 - b. Requests for **permissive interventions** must be evaluated by the Commission on a case-by-case basis and may be granted or denied.¹⁶⁰
4. **Application is assigned to an analyst with the appropriate expertise.** PUC staff include individuals with a broad range of professional and technical expertise, including engineers, network and information technology specialists, economists, accountants, and financial analysts.
5. **Analyst determines whether application is complete.** If, while reviewing the application, the analyst finds deficiencies, the analyst sends a letter to the applicant giving a timeframe for correction of the deficiencies. If the applicant does not cure the deficiencies within the specified timeframe, the analyst skips to Step 7 below, with the recommendation that the application be dismissed as incomplete.
6. **Analyst evaluates the application on its merits.** Once the application is complete, the analyst determines whether the entity has the managerial,

¹⁵⁷ § 40-1-104(5), C.R.S.

¹⁵⁸ 4 CCR § 723-1-1401(b), Rules of Practice and Procedure.

¹⁵⁹ 4 CCR § 723-1-1401(d), Rules of Practice and Procedure.

¹⁶⁰ 4 CCR § 723-1-1401(c), Rules of Practice and Procedure.

technical and financial resources to support the authority being applied for. The applicant must also demonstrate there is a public need for the service. A complex application might be reviewed by several analysts.

- 7. Analyst develops a recommendation for the Commissioners.** If no substantive concerns remain after analysis of the application and any supplemental information provided by the filing party, and after review of any pleadings by other parties, the analyst may draft an order consistent with their recommendation. The analyst provides this draft order along with the analyst's recommendation to the Commissioners and their counsel for discussion at their weekly meeting. However, if the analyst has substantive concerns about the application, they notify PUC advisory staff of their intent to intervene, then work closely with the Attorney General's Office to develop the rationale for the intervention. In this situation, an advisory staff member assumes responsibility for advising the Commissioners on the application.
- 8. Commissioners decide on the application at a weekly meeting.** The analyst or the advisory staff member shares their recommendation and draft order with the Commissioners during their weekly meeting.
 - a. **If an application is complete and uncontested,** the Commission may waive the hearings process and adopt an order issuing the authority at its weekly business meeting.
 - b. **If the application is contested and the Commission determines a hearing is necessary,** then the Commission will issue a decision setting the matter for hearing. The applicant and all intervening parties including PUC staff, may present testimony and have the right to cross-examine witnesses. In high-profile cases or those addressing broad policy issues, the Commission may elect to preside over the hearing. In all other cases, the Commission will refer the matter to an ALJ. In referred cases, the ALJ will issue a recommended decision, which the Commission may affirm, amend, or reject. If the Commission takes no affirmative action on a recommended decision, it will become a Commission decision by operation of law.
- 9. The Commission adopts an order granting or denying the authority.** The order may include a formal CPCN or it may simply grant the utility the authority to do something. The order lays out any terms and conditions of the authority (e.g., the applicant must provide tariffs or proof of insurance by a specified date). Staff will verify that the terms and conditions of the order have been met.

Table 6 shows the number and type of applications the Commission evaluated over the five calendar years indicated.

Table 6
Applications Filed with the Commission

	2020	2021	2022	2023	2024
Fixed Utilities					
General applications processed	60	83	70	70	62
Security filings	2	3	1	2	3
Filings on less than statutory notice	17	17	17	23	19
Interconnection filings	12	13	15	6	6
Total Fixed Utilities	91	116	103	101	90
Transportation					
Applications for common or contract carrier	109	76	83	65	73
Applications for railroad crossings	30	43	25	54	30
Total Transportation	139	119	108	119	103
Grand Total	230	235	211	220	193

While the number of applications in each industry area fluctuated somewhat from year to year, the overall total of applications filed remained mostly stable.

Importantly, most of the documents, including pleadings, testimony, and orders, is available to the public through the Commission’s E-filings System. While these resources are available, they can be difficult to locate and work with. However, a new system is scheduled to come online by the end of calendar year 2026.

Transportation

MOTOR CARRIERS

The Commission grants operating authority to common and contract carriers. It issues over-the-counter permits to limited regulation carriers, large-market taxis, towing carriers, household goods carriers, vehicle immobilization companies, and transportation network companies (TNCs). To qualify, a carrier must meet several requirements, including insurance and vehicle inspections. There are several variables that determine the level of surety required. These variables include the type of cargo, human or otherwise, the size of vehicle(s), and the amount of cargo. The required safety provisions cover both the safety of the vehicle(s) and the drivers. Both the vehicle and the driver must be verifiably deemed road worthy and safe to operate.

Table 7 shows the number of new authorities to operate issued by the Commission for the calendar years listed. This table does not include all active authorities.

Table 7
New Motor Carrier Operating Authorities Issued

Calendar Years	2020	2021	2022	2023	2024
Common carriers	16	20	29	21	15
Contract carriers	2	5	0	5	2
Luxury limousines	542	552	801	1022	957
Children's activity buses	5	25	18	12	9
Charters	42	42	40	47	47
Transportation network companies	3	3	3	5	4
Household goods movers	240	240	230	230	196
Total	850	887	1,121	1,342	1,230

The table above demonstrates that the authorities issued have consistently increased during the years under review. The fluctuation in the number of operating authorities varies due to marketplace dynamics and demand.

Table 8 shows the number of active certificates/permits issued by the Commission to operate a motor carrier in Colorado for the calendar years listed.

Table 8
Number of Active Certificates/Permits Issued

Calendar Years	2020	2021	2022	2023	2024
Common carriers	174	154	149	156	141
Contract carriers	81	81	29	29	26
Luxury limousines	560	449	598	863	991
Children's activity buses	12	8	18	12	8
Charters	46	37	42	43	42
Transportation network companies	3	3	3	4	5
Household goods movers	201	235	231	207	207
Total	1,077	967	1,070	1,314	1,420

The table above indicates a consistent increase in the number of certificates/permits issued, which aligns with the increase demonstrated in Table 6 regarding the consistent increase in new motor carrier operating authorities.

RAIL

Generally, state-level rail regulation concerns the intersection of rail rights-of-way and public roads relating to safety. However, the Commission also has sole authority over the one-rail system in the state that is not regulated by the federal government—the Platte Valley Trolley.

When an entity wants to construct a crossing of one of the 23 railroads in Colorado, it must apply to the Commission with all required engineering and safety specifications. The PUC then provides guidance on the design. Table 9 shows the number of railroad intersection applications filed with the Commission during the calendar years indicated.

Table 9
Rail Crossing Applications

Calendar Years	2020	2021	2022	2023	2024
Number Filed	30	43	25	54	30

The table above demonstrates fluctuations in the total number of rail crossing applications received per year. The total number of applications submitted depends largely upon the number of projects implemented by the railroads, or local and state government entities per year. Additionally, with the limited contact and required social distancing which occurred during the COVID-19 pandemic, there was a backlog of projects that occurred which created the need for further inspection safety diagnostics and stalled the implementation of a variety of projects.

As a part of the application process, PUC staff perform inspections when there is an issue concerning the safety of the intersection. Inspection data are included in the “Inspections” section below.

Pipeline Safety

The federal Pipeline and Hazardous Materials Safety Administration (PHMSA) in the U.S. Department of Transportation annually certifies each state agency that enforces pipeline safety within its state lines. The gas pipeline safety unit under the Commission has jurisdiction over intrastate gas pipelines. The unit is primarily concerned with whether the pipeline is designed, operated and maintained in a manner that protects public safety.

The gas pipeline safety unit accomplishes this by inspecting pipeline operators. It is primarily concerned with:

- Design, construction and repair;
- Operations, such as procedures, processes and personnel qualifications;
- Maintenance;
- Risk management programs; and
- Drug and alcohol programs.

The PUC staff also provides training to pipeline operators.

PHMSA requires the gas pipeline safety unit to be staffed with trained inspectors, and it requires the inspectors to attend multiple training sessions directed by the federal agency prior to being allowed to lead any inspections.

Federal law requires each pipeline operator to obtain a pipeline operator identification number from PHMSA. PHMSA notifies the PUC of any new pipeline operators and changes in pipeline operator ownership, and PUC staff works with the Colorado Energy and Carbon Management Commission (ECMC), the Colorado Department of Labor and Employment's Division of Oil and Public Safety (OPS) and local governments to determine which pipeline operators fall within its jurisdiction.

Table 10 provides the total number of pipeline operators under the jurisdiction of the Commission over a five-year period.

Table 10
Pipeline Operators

Calendar Years	2020	2021	2022	2023	2024
Number of operators	66	66	72	79	89

As Table 10 indicates, the number of pipeline operators has increased during the last five years. Generally, the increase is attributable to the promulgation of rules providing clarity as to the types of pipeline gathering line operators that are under the Commission's regulatory oversight.

The Commission regulates gas distribution systems, transmission systems and gathering systems.

Gas distribution pipelines distribute gas to homes and businesses. Gas transmission pipelines transport gas thousands of miles across the country from processing facilities, and gas gathering pipelines transport raw natural gas from production wells to transmission pipelines.¹⁶¹

Table 11 demonstrates the type of natural gas pipeline operators regulated by the Commission in calendar years 2020 through 2025.

¹⁶¹ Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation. *General Pipeline FAQs*. Retrieved August 22, 2025, from <https://www.phmsa.dot.gov/faqs/general-pipeline-faqs>

Table 11
Type of Pipeline Operators

Calendar Years	2020	2021	2022	2023	2024
Private gas distribution	6	6	7	7	7
Municipalities	9	9	9	9	9
Master Meter Operators	16	16	15	14	14
Liquid Petroleum Gas	6	6	5	5	5
Private gas transmission	22	21	23	26	26
Private gas gathering	3	3	3	4	5
Liquid Natural Gas Facility	0	0	0	0	1

Inspections and Audits

The transportation section and the gas pipeline safety unit conduct audits and inspections.

Transportation

RAIL

There are more than 2,000 rail crossings in Colorado, and PUC staff perform inspections when there is an issue concerning the safety of the intersection.

Table 12 lists the inspections conducted by PUC staff during the fiscal years indicated.

Table 12
Railroad Safety and Compliance Inspections

Calendar Years	2020	2021	2022	2023	2024
Inspections - rail	41	86	42	29	33
Inspections - fixed guideway	59	11	26	39	61
Audits - fixed guideway	16	15	47	23	15

Audits involve the review and analysis of a variety of records. Typically, these records relate to safety diagnostics held at crossings (to determine what changes may need to occur at a highway-rail crossing to improve safety), changes resulting from a local government, state, or railroad project, or are follow-up inspections by PUC staff.

There are several specific items that are audited over a three-year period. In order to ensure completion of all audited items, an audit checklist is developed for the upcoming three-year audit cycle which lists all of the elements that need to be audited to ensure

that the rail fixed guideway system is in compliance with its Public Transportation Agency Safety Plan. A portion of the audit process is completed every six months.

An inspection is a physical observation of equipment, facilities, rolling stock, operations, or records to obtain facts and review information, and staff performs these inspections separate from audits in order to review trends and verify compliance.

MOTOR CARRIER

The PUC staff conduct inspections to help ensure that vehicles are roadworthy and safe. Table 13 lists the number of inspections performed on vehicles during the period examined for this sunset review.

Table 13
Motor Carrier and Vehicle Inspection Statistics

Calendar Years	2020	2021	2022	2023	2024
Inspections	158	164	276	130	117
S&C reviews	95	68	55	11	0

The table above demonstrates a fluctuation in the number of inspections performed and a dramatic decrease to zero in the number of safety and compliance reviews performed during the years under review. A number of factors have led to these shifts in review and inspection performance, including unfilled staffing vacancies, challenges in performing inspections and reviews during the COVID-19 pandemic, as well as dramatic increases in the number of towing-related cases resulting from the implementation of House Bill 22-1314 regarding the rights of vehicle owners in situations of non-consensual towing.

Pipeline Safety

The gas pipeline safety unit performs several activities necessary to ensure that gas pipelines meet the minimum safety standards defined by the federal government:

- Standard Inspections - Involve the procedures and processes that a pipeline operator must develop and use in the routine operations and maintenance of its pipeline system.
- Construction Inspections - Involve the design, construction and testing of a pipeline system.
- Integrity Management Inspections - Involve the integration of many different sources of information to identify and rank threats to pipelines, determine the likelihood of pipeline failure and implement measures to mitigate or reduce the

possibility of a failure that impacts public safety. The program audits the entirety of these plans' development and implementation.

The PUC staff also investigates pipeline incidents and events that are reported from a variety of sources, including the pipeline operator's direct reports to PUC staff, the National Response Center (NRC), other pipeline officials such as ECMC and OPS inspectors, local emergency responders and media reports. Reportable incidents include corrosion failure, incorrect operation, material failure of a pipe or weld, equipment failure, natural force damage and other damage and incidents.

The PUC staff also conducts programmatic inspections of a pipeline operator's damage prevention program and determines whether it is adequate.

Table 14 illustrates the number and type of gas pipeline safety activities over a five-year period.

Table 14
Pipeline Safety Inspection and Investigation Efforts in Days

Calendar Years	2020	2021	2022	2023	2024
Standard Inspections	277	183	370	261	256
Design, Testing, & Construction	201	0	302	247	296
On-Site Operator Training	0	0	6	6	16
Integrity Management	78	119	100	61	80
Operator Qualification	5	0	44	86	35
Incident Investigations	56	10	15	109	94
Damage prevention activities	45	7	4	7	1
Compliance Follow Up	8	2	20	96	49

As Table 14 indicates, there was a significant decrease in the number of "Design, Testing, & Construction" efforts in 2021. The decrease is attributable to the COVID-19 pandemic.

The PUC staff follows an inspection planning cycle. Pipeline operators who have compliance problems or have new programmatic activity are inspected more frequently than other pipeline operators. Incident investigations, damage prevention activities and follow-up compliance inspections are performed when necessary.

Table 15 charts the pipeline safety violations identified by inspectors over a five-year period.

Table 15
Pipeline Safety Probable Violations by Calendar Year

Calendar Years	2020	2021	2022	2023	2024
Number found during Calendar Year	158	0	68	76	20
Number submitted to PHMSA	Not applicable	Not applicable	Not applicable	8	5
Number corrected during Calendar Year	2	0	184	129	116
Number to be corrected at the end of Calendar Year	160	0	38	115	65

Generally, the increase in the number of “Inadequate or missing records” category is attributable to heightened scrutiny on operators to keep and maintain complete and accurate records.

A pipeline operator may also be cited for an “Action/Activity not performed or not performed in accordance with rules or procedures,” which include any activity that is either not performed as scheduled or not performed as procedurally described by the pipeline operator.

An “Action/Activity not performed or not performed in accordance with rules or procedures” may include portion of a regulated pipeline that:

- Has not been designed, constructed or tested in a manner that can be safely operated; or
- Has not been operated and maintained in a manner that allows it to continue to be safely operated.

Complaints and Enforcement

The tenth sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity.

The majority of complaints against regulated utilities are handled through the PUC’s “informal complaint” process set forth in Rule 1301. The Rule sets out a streamlined grievance resolution process that is intended to avoid the costs of litigation.¹⁶²

Consumers can make efforts to resolve billing or service issues directly with a utility. When those efforts prove unsatisfactory, however, consumers can contact the PUC staff.

¹⁶² 4 CCR § 723-1-1301(a), Rules of Practice and Procedure.

Consumers can contact the PUC’s External Affairs unit through an online portal to trigger the informal complaint process. Once a complaint is received, an information specialist will evaluate the matter to ensure it is within Commission’s jurisdiction. If the matter is not within the jurisdiction of the Commission, it is referred to the appropriate agency. If a matter relates to a proceeding such as a formal complaint or rulemaking hearing, it is referred to that proceeding as a public comment. If the matter relates to an issue the specialist can address without referring to the utility, it is coded as an “informational” request rather than a complaint. If the matter meets the criteria of a jurisdictional complaint, the specialist forwards the complaint to the utility, giving it a period of up to 14 days to respond.¹⁶³ If both parties agree, the specialist can work as an intermediary between the consumer and the utility.¹⁶⁴ When closing an informal complaint, the specialist documents the estimated dollars saved by the customer (if any). A complainant may withdraw their informal complaint at any time during this process.¹⁶⁵

Table 16 shows the number of complaints received by the External Affairs unit, the number that was coded as complaints and resolved via the informal complaint process, and the estimated money saved to consumers for the five calendar years indicated.

Table 16
Informal Complaints

Category	CY 2020	CY 2021	CY 2022	CY 2023	CY 2024
Total number of complaints	1,560	1,823	2,191	3,339	2,887
Total complaints closed	1,572	1,811	2,124	3,117	2,934
Transportation complaints closed	667	680	842	1,303	1,577
Fixed utility complaints closed	905	1,131	1,282	1,814	1,357
Money saved consumers	\$32,110	\$35,720	\$81,698	\$144,554	\$114,927

The number of complaints is not necessarily directly tied to the estimated money saved consumers. The estimated money saved to consumers might fluctuate from year to year because some complaints include billing errors. A few "large" billing errors in a given year could yield a larger savings amount than many "small" billing errors.

If a complaint cannot be resolved via the informal process, the complainant has the option to file a formal complaint,¹⁶⁶ which is then most typically presided over by an ALJ. Formal complaints are considered the last resort for resolution of a jurisdictional issue. The PUC may also initiate a formal complaint proceeding on its own motion.¹⁶⁷

Table 17 shows the number of formal complaints for the five calendar years indicated.

¹⁶³ 4 CCR § 723-1-1401(c), Rules of Practice and Procedure.

¹⁶⁴ 4 CCR § 723-1-1301(d), Rules of Practice and Procedure.

¹⁶⁵ 4 CCR § 723-1-1301(e), Rules of Practice and Procedure.

¹⁶⁶ 4 CCR § 723-1-1302(a), Rules of Practice and Procedure.

¹⁶⁷ 4 CCR § 723-1-1302(c), Rules of Practice and Procedure.

Table 17
Formal Complaints

Category	CY 2020	CY 2021	CY 2022	CY 2023	CY 2024
Total Formal Complaints	4	5	9	16	13

Formal complaints can result in the Commission taking enforcement actions such as the imposition of civil penalties.¹⁶⁸

The Commission has a duty to see that the provisions of the constitution and statutes affecting public utilities are:¹⁶⁹

enforced and obeyed and that violations thereof are promptly prosecuted and penalties due the state are recovered and collected, and to this end it may sue in the name of the people of the State of Colorado. Upon the request of the Commission, the Attorney General or the district attorney acting for the proper county or city and county shall aid in any investigation, hearing, or trial [...] and institute and prosecute actions or proceedings for the enforcement of the constitution and statutes of this state affecting public utilities and persons subject to [the laws governing motor carriers] and for the punishment of all violations thereof.

Common grounds for enforcement action include utilities over-collecting money from customers and utilities' failure to file required documents such as annual reports. One enforcement action at the Commission's disposal is to revoke a utility's CPCN or registration, but in cases where hundreds if not thousands of customers would be affected, revoking a company's CPCN may not be a viable option.

Although the Commission can levy fines against fixed utilities, it has not done so since the General Assembly granted it administrative fining authority in 2008. Rather than taking formal action against fixed utilities, PUC staff typically work closely with the regulated utility to bring it into compliance with the applicable laws and rules. This approach generally minimizes the negative impact on ratepayers.

Transportation

The Commission has the ability to issue civil penalties to motor carriers who violate the provisions of regulation. A Civil Penalty Assessment Notice (CPAN) is issued when a motor carrier is found to have committed a violation. If the motor carrier pays the penalty within 10 days, the amount of the fine is lowered. Any fine may be appealed to an Administrative Law Judge (ALJ) who will hold a hearing and render a decision regarding upholding or modifying the penalty or dismissing the case.

¹⁶⁸ 4 CCR § 723-1-1302(b), Rules of Practice and Procedure.

¹⁶⁹ § 40-7-101, C.R.S.

Table 18 lists the number and dollar amount of CPANs issued over the five calendar years indicated.

Table 18
CPANs Issued by Calendar Year

Calendar Years	2020	2021	2022	2023	2024
Total issued	5	6	16	47	49
CPAN issuance amount	\$21,447.50	\$58,707.50	\$133,773.75	\$245,640.00	\$1,687,699.75

The table indicates that there were steady increases in the number of CPANs issued and the total dollar amount assessed. During calendar year 2020, the number of CPANs significantly decreased due to staffing vacancies and the aftermath of the COVID-19 pandemic. Since that time, the issuance of CPANs has gradually increased as more aggressive actions have been taken in recent years against consistently problematic carriers, as necessary.

Pipeline Safety

When pipeline safety violations are uncovered, several pipeline safety rule violations may be incorporated into an individual compliance action.

An inspector issues a warning notice when they uncover a probable violation with no previous enforcement history and the violation poses a low risk to public safety, pipeline integrity or facility integrity. If a probable violation of the rules has a previous enforcement history or it poses a moderate to severe risk to public safety, pipeline integrity or facility integrity, a notice of probable violation will be issued to the pipeline operator.

If an inspection, audit or investigation reveals that a pipeline operator's plans or procedures are inadequate to ensure the safe operation of a pipeline or facility, a Notice of Amendment will be issued. Typically, a Notice of Amendment will be associated with a warning notice or notice of probable violation. The pipeline operator may need to correct an existing procedure immediately or in a specified amount of time in order to ensure pipeline safety.

Alternatively, if violations are minor in nature, meaning they are administratively inadequate and pose low risk to public safety and pipeline integrity, a Request for Amendment may be issued. A Request for Amendment requires a pipeline operator to modify, edit or correct an existing procedure prior to the next scheduled review of the pipeline operator's plans or procedures.

Prior to the passage of House Bill 21-108, any notice of probable violations that were issued always contained a calculated and recommended civil penalty. The civil penalty was not always imposed on a pipeline operator since state law and federal policy

explicitly envisioned alternative enforcement methods, such as requiring repair or replacement of inadequate facilities or requiring improved training of a pipeline operator's technical staff. However, the enactment of House Bill 21-108 not only increased the maximum allowable civil penalty threshold, but it also required civil penalties of at least \$5,000 regardless of the operator's size.

Table 19 provides the number of pipeline safety compliance actions taken over a five-year period.

Table 19
Pipeline Safety Compliance Actions

Calendar Years	2020	2021	2022	2023	2024
Warning	0	0	4	10	4
Notice of Probable Violation	0	8	11	3	0
Notice of Amendment	0	0	0	0	0
Request for amendment	0	0	0	0	2
Referred to PHMSA (60106)	0	0	0	1	6

The pipeline safety program issued 22 Notices of Probable Violation to operators, and generally, these violations were accompanied civil penalties of at least \$5,000.

Table 20 provides the number and total value of civil penalties assessed over a five-year period.

Table 20
Pipeline Safety Civil Penalties Assessed

Calendar Years	2020	2021	2022	2023	2024
Number	0	8	11	3	0
Amount Assessed	0	\$3,720,000.00	\$4,280,000.00	\$1,733,250.00	0

As Table 20 indicates, there was an increase in the imposition of civil penalties assessed against operators beginning in 2021. The increase is attributable, in part, to the enactment of House Bill 21-108, which mandates a minimum of a \$5,000 civil penalty.

Collateral Consequences - Criminal Convictions

Section 24-34-104(6)(b)(IX), C.R.S., requires the Colorado Office of Policy, Research and Regulatory Reform to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or registrants based on past criminal history, and if so, whether the disqualifications serve public safety or

commercial or consumer protection interests. COPRRR utilizes this section of the report to evaluate the program according to this criterion.

Neither taxi drivers nor TNC drivers are specifically regulated as a profession. However, to be eligible to drive for one of these regulated entities, a person must not have committed certain criminal offenses involving substance abuse, sexual conduct, or violent behavior, among others.

The Commission does not enforce the prohibition at the driver level. In the case of taxis, since the criminal history background check is performed through the Colorado Bureau of Investigation, the PUC staff informs the possible employer if a driver is eligible to drive based on the findings of the criminal history check. In the case of TNCs, most companies perform their own criminal history checks. If, during an inspection, the PUC finds that a driver is ineligible to drive, it cites the TNC for the violation.

Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

General

Recommendation 1 – Continue the Public Utilities Commission and schedule future sunset reviews to occur by industry sector.

Regulation of public utilities in Colorado began as early as 1885. That year, the Railway Commission was established with the power to investigate railroad rates and charges. Then, in 1913, the Public Utility Act was passed. This created a three-member Public Utilities Commission (Commission) and abolished the State Railroad Commission. More than 100 years later, the Commission's regulation of public utilities continues to be a crucial aspect in maintaining the livelihood and safety of Coloradans.

The PUC broadly regulates the following five categories: energy, pipeline safety, telecommunications, water utilities, and transportation (including rail). Much of the Commission's responsibilities across these areas focus on ensuring safe, dependable, and efficient services at rates that are just, reasonable, and not discriminatory. Pipelines are largely federally regulated; however, the PUC inspects and monitors intrastate gas pipeline system operators to ensure that, among other things, qualified operators meet minimum standards for pipeline safety.

The Commission currently functions as a Type 1 entity housed in the Department of Regulatory Agencies and has varying degrees of regulatory authority over 2,633 telecommunications, energy, transportation, and water entities and oversees 46,878 miles of pipelines. For an investor-owned utility to provide service to the public, it must first apply to the Commission for a certificate of public convenience and necessity (CPCN). Commissioners determine whether there is a public need for the services being offered and whether applicants have the required qualifications and minimum financial resources to provide such services.

Unlike most boards and commissions in Colorado, the position of a PUC Commissioner is a full-time position and consists of 40 hours or more per week. Commissioners are prohibited from holding outside employment. Due to the complex technical knowledge required, the Commissioners rely on staff who are primarily subject matter experts for guidance. The PUC hires engineers, economists, financial analysts and other professionals with specific expertise and carefully evaluates every CPCN application it receives. The director of the PUC manages staff and works closely with Commissioners to coordinate matters before the Commission.

In addition to licensure, the PUC conducts safety inspections, reviews consumer complaints and takes enforcement actions against utilities found to be in violation of the law. The Commission performs quasi-judicial functions, such as presiding over disciplinary matters and assuring due process for all involved. The PUC hires Administrative Law Judges (ALJs) to assist with complex and nuanced matters or to help reduce heavy caseloads. There were 478 decisions made by the Commissioners and 430 decisions made by ALJs in fiscal year 23-24.

The Commission also has a quasi-legislative function by promulgating rules related to the industries it regulates. There were 20 rulemaking proceedings in fiscal year 23-24.

One of the primary responsibilities of the Commission is to determine the rates utilities can charge consumers. Rate cases arise when certain utilities seek approval to change the rates their customers pay for their utility service. It allows the Commission to determine whether the new rates are unreasonable or discriminatory. Because these utilities can essentially function as monopolies, and consumers do not always have the option to “shop around” for utility services, it is essential to ensure that ratepayers receive safe and reliable service at a fair and reasonable price. The PUC also considers the operational and financial goals of entities to ensure they have sufficient revenue and can continue to provide essential utilities to Coloradans.

When applicable, the PUC works closely with local governments, state agencies, and federal agencies. State agencies may include:

- Colorado Energy Office,
- State Emergency Operations Center,
- Colorado Electric Transmission Authority,
- Colorado Department of Transportation,
- Colorado Department of Natural Resources,
- Colorado Department of Public Health and Environment, and
- Colorado Department of Labor.

Federal agencies the PUC works with may include:

- General Services Administration,
- Federal Energy Regulatory Commission,
- Department of Energy,
- Federal Communications Commission,
- U.S. Department of Transportation,
- Federal Railroad Administration, and
- U.S. Department of Agriculture’s Rural Utilities Service.

Another critical component that is under the jurisdiction of the Commission is 9-1-1 service. The PUC has three primary duties regarding 9-1-1 service:

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- Oversight of "Basic Emergency Service" provisions in section 40-15-201, C.R.S.;
 - Approval of Emergency Telephone Charges; and
 - Administration of the state's 9-1-1 surcharge.

Moreover, the PUC provides an avenue for members of the public to submit complaints. The Commission meets weekly, including one in-person meeting each month. Any member of the public is welcome to attend one of the weekly meetings, whether in person or remotely. Meetings are broadcast live and archived on the internet for future reference.

A central purpose of this sunset review is to determine whether regulation is necessary to protect the public health, safety, and welfare. Clearly, the wide range of services public utilities provide highlights the need for effective regulation. Federal regulations vary significantly between different public utilities. Wherever federal regulation of utilities ends, the PUC can step in to fill the void and ensure the proper functioning of utilities, thereby protecting public health and safety.

From a large power plant to a transportation company, from a pipeline running underground to a railroad crossing, the PUC helps ensure a wide range of companies, their products, and their services meet minimum safety and quality standards. Persistent complaints with a utility might be resolved with the PUC's intervention. For some of these activities, the stakes are high. The failure to detect a leaky gas pipeline might result in injury and loss of life. Other activities may not have immediate consequences, but they still benefit Coloradans. Investigations into a power outage could prevent future outages or wildfires, for example.

Public utilities commissions, or equivalents, exist in virtually every state. Without regulation, the public would not be expected to have sufficient expertise to navigate all of these areas appropriately. Given the time Commissioners dedicate to the PUC and the wide breadth of staff it employs, the PUC possesses the depth of expertise and knowledge necessary to act in the public interest. Moreover, the public utility sector is constantly evolving, sometimes more quickly than regulatory frameworks. It is challenging to predict what new technologies might emerge and disrupt the operations of public utilities within the next five years. Whether it is advancements in technology such as artificial intelligence, environmental changes, or changes in regulation by other government agencies, the existence of the PUC ensures that Coloradans will have an agency to intervene on their behalf if required.

Through its licensing, inspection, enforcement, rulemaking, and rate-setting activities, the PUC helps to ensure that regulated utilities provide customers with reliable, responsive, and timely services. It also ensures that only qualified companies provide essential utility services to the public. If the PUC finds that a utility intentionally or negligently commits unsafe practices that violate the law, it can initiate regulatory enforcement, which may include revoking the utility's operating authority and requiring the utility to make its customers whole. This clearly serves to protect the health, safety, and welfare of Coloradans.

Colorado’s Constitution also underscores the need for public utility regulation. Article XXV, enacted in 1954, gives the General Assembly the power to designate a state agency to regulate public utilities in the state. As such, the Commission determines that the provisions of the constitution and statutes affecting public utilities are being correctly implemented.

However, much has changed since the Railway Commission was created in 1885 and since the Commission itself was created in 1913. Today, it is difficult to imagine an aspect of Colorado life that is not somehow touched by the PUC’s activities. As Colorado has changed, so too has the PUC’s mandate. While safe and reliable service continues to be a priority, issues such as affordability, equitable access, greenhouse gas emissions, and the stability of the state’s gas and electric infrastructure are topics of heated discussion.

Similarly, the structure of the Commission itself was a popular topic of discussion during this sunset review. These conversations addressed issues such as the appropriate number of commissioners, whether Commissioners should be appointed or elected, the length of the Commissioners’ terms of office and whether the Commission itself should include geographic representation. Some of the recommendations that follow aim to address the issues raised in these discussions.

Not surprisingly, many of the topics of discussion throughout this sunset review did not result in recommendations. This, combined with the sheer number of recommendations that are included in this sunset report, illustrates the massive scope of the PUC itself and the resulting sunset report.

It became apparent during this sunset review that the PUC is too large and multifaceted to conduct a thorough and helpful sunset review of the entire PUC. A new sunset schedule that accommodates the complexity of different sectors may lead to more effective regulatory reforms.

The General Assembly should continue the PUC and schedule future sunset reviews as outlined in Table 21, below.

Table 21
Future Sunset Dates

Proposed Sunset Dates by Function				
Sector / Year	2030	2033	2035	2037
Transportation and Rail	✓			
Water		✓		
Telecommunications		✓		
Pipeline Safety			✓	
Energy				✓

This schedule is designed to facilitate future sunset reviews that delve more deeply into the various sectors regulated by the PUC, resulting in more comprehensive and more detailed sunset reports and recommendations to the General Assembly.

The regulation of towing carriers is currently scheduled to repeal in 2030, with a sunset report due to the General Assembly in 2029. Since towing is part of the transportation sector, including rail, that sector should be scheduled for repeal at the same time. Additionally, the number of transportation-related recommendations in this sunset report suggests that another sunset review should occur sooner rather than later.

The regulation of the water and telecommunications sectors can be reviewed together, given their relatively small size, and should be scheduled for repeal in seven years, in 2033. The pipeline safety program should be scheduled for repeal two years after that, in 2035, which represents a nine-year continuation. Given that the recommendations regarding these sectors are few and do not have significant policy implications, these are reasonable continuation periods.

Finally, the energy sector should be scheduled for repeal in 2037, which is an 11-year continuation. Given the number and magnitude of the recommendations in this sunset report, this may seem unjustified. However, given the prevalence of recent legislation regarding energy, and the likelihood that such endeavors will continue, there is less need for a sunset review any sooner. The General Assembly has and can continue to pass legislation regarding this critical sector at any time, without a sunset review. Additionally, conducting a sunset review amid constant statutory changes presents a unique set of challenges as newer provisions are being implemented. Sunset reviews during such turbulent times can be of limited value.

For all these reasons, the General Assembly should continue the Commission and schedule future sunset reviews in accordance with the schedule outlined above.

Recommendation 2 – Permit the Commissioners to communicate with one another on adjudicatory matters outside of a public meeting, provided certain and specific safeguards are implemented.

The Colorado Sunshine Act of 1972 (Open Meetings Law) states,

All meetings of two or more members of any state public body at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

A state public body is defined, in pertinent part, as “any board, commission . . . to which the state . . . has delegated a governmental decision-making function[.]”

A meeting is defined as “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.”

Thus, under the terms of the Open Meetings Law, the Commission is a state public body and any gathering of two or more Commissioners to discuss public business is a public meeting that must be open to the public. This is a practice to which the Commission strictly adheres.

The intent of the Open Meetings Law is to ensure that public business is transacted in public, open to public scrutiny and observation. It is a laudable goal, but in the case of the Commission, it may impede the timeliness and quality of decision-making.

Throughout the course of this sunset review, multiple stakeholders expressed frustration at the length of time it can take the Commission to make a decision on certain matters. Some of this may be, at least in part, attributable to the Open Meetings Law requiring that substantive discussions among Commissioners about matters for decision be conducted only in open public meetings. This requirement stymies brainstorming and discussion, as Commissioners are required to respond in real time to new proposals and may be reluctant or unprepared to talk through highly technical matters for fear of saying something that is “outside of the box” in an open public meeting.

It may also inhibit the efficiency with which Commission decisions are drafted. While one Commissioner may draft the decision for circulation to the other two, none can see the others’ comments. Instead, if a Commissioner has a question about a drafted section or addition, the decision language would be discussed again publicly. This makes for a lengthy and awkward drafting process.

Additionally, if one Commissioner has an idea, the only time to raise it is in an open meeting. This means that the other two Commissioners have insufficient time to think things through or to develop probing questions. As a result, the matter must be brought back to a later public meeting to allow the other Commissioners time to consider and prepare their responses to the new idea. Should another new idea arise at that subsequent meeting, that new idea also might need to be brought back to another public meeting, further delaying the proceedings.

Thus, the Open Meetings Law may hamper creative solutions, or delay solutions to highly technical matters. One solution is to mirror the process used by the New Mexico Public Regulation Commission. Deliberations on adjudicatory proceedings are excepted from the state’s open meetings law. However, these closed deliberations can only occur after the evidentiary record closes, only upon notice and can only include commissioners, their advisors and counsel. According to PUC staff, many other commissions use variations of this process.

This raises several legitimate concerns that the Open Meetings Law was intended to address, such as decisions being made outside of a public meeting. The democratic principles of the United States generally frown upon such prospects, preferring instead to keep government open and transparent. At the same time, the Commission has broad authority on increasingly complex matters. Discussing ideas and seeking real-

time advice may be increasingly stifled if public deliberations delay determinations that must meet statutory deadlines.

Thus, any efforts to allow the Commissioners to deliberate on adjudicatory matters outside of a public meeting must be accompanied by stringent safeguards.

Commission decisions must be based on the record that is created during the course of a particular proceeding, and this should not change. If the Commissioners are to be allowed to deliberate matters outside of a public meeting, then those deliberations should only be permitted once the full evidentiary record is established.

In addition, any discussion not in public should be noticed. Section 40-6-122, C.R.S., provides for *ex parte* communications between Commissioners and “interested persons” and requires that such communications be disclosed. The disclosure must include, among other things:

- Those involved in the communication,
- The time and place of the communication, and
- The subject matter of the communication.

Similar disclosures should also be required of Commissioner-to-Commissioner communications to maintain at least a modicum of transparency. These pre-deliberation discussions should be limited to the Commissioners, their advisors and their counsel. In this way, the Commissioners could discuss concepts and technical issues in depth, prior to a public deliberation.

To that end, if the Commissioners are to be permitted to discuss a matter outside of a public meeting, including with any advisors or counsel, a subsequent public meeting should be required to capture their final reasoning and determination. In this way, the noticed discussion of minute technical or other matters could be debated privately, but the ultimate determination, including any dissenting views, would be provided publicly. The Commissioners should publicly confirm the basis for their determinations on the record, which would then be documented, as it is now, in a final decision reflecting the decisions made.

To be sure, this is a dramatic departure from traditional notions of open meetings, but it is not entirely without precedent. Appellate and supreme court justices often confer with one another after hearings have concluded. While the Commission is certainly different from a traditional court, this limited exception balances the increasingly complex deliberative duties of the Commission with public transparency.

Some may fear that one or two Commissioners might try to persuade the others to their point of view or make some kind of political deal. While these fears have merit, the Commissioners being required to speak publicly about their decision after the private meeting should mitigate those concerns. The safeguards outlined above, which would permit these discussions only after the evidentiary record closes; after notice has been

given; limiting the discussions to the Commissioners, their advisors and their counsel and requiring public discussion prior to a final decision is issued, are intended to at least partially alleviate such fears.

The first sunset criterion asks whether the regulation at issue is necessary to protect the public health, safety and welfare and the third asks whether the regulation is the least restrictive consistent with the public interest.

While open meetings serve the public interest, in this case, they are overly restrictive. The safeguards described above can help to alleviate some of the concerns that gave rise to the Open Meetings Law. Further, the General Assembly should direct the Commission to use its rulemaking process, with its opportunities for input from all concerned parties, to fully establish the parameters of how such a process will work in practice.

For all these reasons, the General Assembly should permit the Commissioners to communicate with one another outside of a public meeting for adjudicatory matters, consistent with the safeguards and directives outlined above.

Recommendation 3 — Authorize PUC staff to send correspondence electronically and direct that it develop protocols to ensure security and to address when it will be used.

The PUC has modernized many of its communication processes. Also, the vast majority of communication between PUC staff and external parties, such as regulated entities, intervenors and the public, occurs via electronic correspondence.

However, there is still language in the statute that requires the PUC to communicate, in some instances, via mail. This not only requires the expenditure of resources, but it also precludes the ability of the PUC to provide legal notice by email.

The statute should be updated to reflect common communication practices, including authorizing electronic communication. Clearly, the statute does not prohibit sending letters attached to an email, but the language does not authorize electronic correspondence only.

Since email correspondence is widely utilized, the statute should be updated to allow electronic correspondence in all areas of the statute. Importantly, authorizing the utilization of electronic correspondence is permissive, not mandatory. The PUC may utilize first-class mail delivery if, for example, staff are unable to identify a current email address or as warranted by other circumstances.

Even so, the PUC should establish protocols addressing the security of electronic correspondence as well as when electronic correspondence may be used.

The sixth sunset criterion asks whether an analysis of agency operations indicates that the agency or the agency's board or commission performs its statutory duties efficiently and effectively. Authorizing electronic correspondence for all PUC communications will allow an additional option for communication and facilitate enhanced efficiency.

As such, the General Assembly should authorize electronic communication for all PUC correspondence and direct the PUC to develop protocols regarding security and when it will be used.

Administrative Recommendation 1 – The PUC should schedule proceedings so that they follow a logical cadence and order.

In recent years, the General Assembly has enacted several changes related to energy. Among many others, are:

- Senate Bill 19-077: Electric Motor Vehicles Public Utility Services
- Senate Bill 19-236: Sunset Public Utilities Commission
- Senate Bill 21-246: Electric Utility Promote Beneficial Electrification
- Senate Bill 21-264: Adopt Programs Reduce Greenhouse Gas Emissions Utilities
- House Bill 21-1238: Public Utilities Commission Modernize Gas Utility Demand-side Management Standards
- Senate Bill 23-198: Clean Energy Plans

Senate Bill 19-077 required the Commission to establish a process to allow utilities to build facilities that support electric vehicles. Since implementation, companies have been submitting transportation-energy plans (TEPs) to the Commission for approval.

Senate Bill 19-236 directed the Commission to create rules for investor-owned electric utilities to file distribution system plans (DSPs) regarding the utility's anticipated investments related to its distribution system. Plans must also discuss how distribution systems will support achievement of the state's decarbonization goals, along with implementation of federal, state, regional, and local air quality and decarbonization targets.¹⁷⁰ Utilities with more than 500,000 customers must file DSPs with the Commission every two years.¹⁷¹

Senate Bill 21-246 directed the Commission to establish energy savings targets and to approve energy plans that promote the use of energy-efficient electric equipment in place of fossil-fuel-based systems. This, taken together with House Bill 21-1238, makes changes to existing demand-side management (DSM) policies of natural gas utilities. DSM refers to the planning, implementing, and monitoring activities of electric utilities

¹⁷⁰ Colorado Public Utilities Commission. *Distribution System Plans*. Retrieved September 20, 2025, from <https://puc.colorado.gov/distribution-system-plans>

¹⁷¹ 4 CCR § 723-3-3528, Rules Regarding Electric Utilities.

which are designed to encourage consumers to modify their level of usage.¹⁷² Certain utilities are required to file DSM plans every two years.¹⁷³ House Bill 21-1238 also updates the methods used by the Commission to determine how effective a DSM plan is. It requires the Commission to consider potential savings to ratepayers resulting from reduced consumption of natural gas. Before creating a DSM plan, a utility must go through a Strategic Issues (SI) proceeding before the Commission. In SI proceedings, the Commission examines the utility's energy efficiency proposals and establishes a policy framework. Subsequently, the utility can develop and file a DSM plan to the Commission for approval.¹⁷⁴

Senate Bill 21-264 requires gas utilities with more than 90,000 retail customers to file clean heat plans (CHPs) with the Commission. A CHP must demonstrate how the utility will use clean heat resources to meet the state's clean heat targets.¹⁷⁵ As a result of this legislation, utilities now file Gas Infrastructure Plans (GIPs), which are detailed proposals outlining the need for upgrades to a utility's existing gas systems, including potential alternatives to system upgrades. Utilities file GIPs every two years unless otherwise required by the Commission by a rule or an order.¹⁷⁶

Senate Bill 23-198 updates the state's clean energy plans (CEPs) to ensure they correlate with the state's greenhouse gas emission reduction targets. Colorado already required that certain entities submit to the Commission a CEP that discusses how the entity will achieve at least an 80 percent reduction in greenhouse gas emissions by 2030 relative to 2005 levels. Senate Bill 23-198 required that, in addition to meeting the 2030 clean energy target, entities that apply to the Commission starting in 2024 need to meet additional reduction targets by 2027.

While this list is not exhaustive of the work of the PUC in implementing new statutes, when taken together, these statutes create incongruous timelines that often overlap or are otherwise not feasible in conjunction with the PUC's other business. For example, many of the filings required by the statutes listed must be submitted to the Commission on different dates, each triggering separate hearing schedules. These hearing schedules often last for close to a year and can include complex issues that demand Commissioner and staff attention.

The cadence of these proceedings makes it difficult to properly analyze all of the factors in instances where multiple, disputed issues might affect the same distribution system or the electrical grid. When a proceeding is completed for one utility, additional utilities may still be required to submit their plans to the Commission for approval. This makes it difficult for Commissioners to evaluate system-wide changes to the grid, apply

¹⁷² U.S. Energy Information Administration. *Electric Utility Demand Side Management - Archive*. Retrieved September 20, 2025, from <https://www.eia.gov/electricity/data/eia861/dsm/>

¹⁷³ 4 CCR § 723-4-4753, Rules Regarding Gas Utilities and Pipeline Operators.

¹⁷⁴ 4 CCR § 723-4-4761, Rules Regarding Gas Utilities and Pipeline Operators.

¹⁷⁵ Colorado Public Utilities Commission. *Clean Heat Plans*. Retrieved September 20, 2025, from <https://puc.colorado.gov/cleanheatplans>

¹⁷⁶ Colorado Public Utilities Commission. *Gas Infrastructure Plans*. Retrieved September 20, 2025, from <https://puc.colorado.gov/gas-infrastructure-plans>

the same policies universally, and analyze the impacts of these policies. The Commission must assess an individual filing on its own merits and still determine how it will impact the overall electric distribution system. When filings regarding the same issues proceed in such a piecemeal fashion, it is challenging to predict the ultimate, “behind-the-meter” effects on individuals who depend on that system. Moreover, lack of efficiencies across the Commission’s case load makes it difficult to expedite any individual proceeding.

The PUC is still in the process of implementing many of these statutory changes and more will likely follow. Where possible, rather than being reactive to filings of utilities, the Commission should set a schedule of proceedings so that they follow a logical cadence and order. When the Commission determines a solution to properly establish the timing of proceedings, it can set an expectation for the utilities that it regulates. If statutory changes are needed to align the different submission and target dates, the Commission should seek legislation so that the General Assembly can help enshrine a proper schedule in statute.

The second sunset criterion asks whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight. The fourth criterion questions whether agency rules enhance the public interest and are within the scope of legislative intent. The fifth sunset criterion asks whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances. The sixth criterion questions whether an analysis of agency operations indicates that the agency or the agency’s board or commission performs its statutory duties efficiently and effectively. And the fourteenth criterion asks whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

The Commission should seek to establish a schedule of proceedings so that they follow a logical cadence for the PUC, utilities and stakeholders. If legislation is required, the PUC should seek a change from the General Assembly to align required dates within each statute. Updating the cadence of proceedings into a more logical order will make it easier for the Commission to assess related filings and to allow for a more comprehensive and more efficient process.

Administrative Recommendation 2 – The Commission should incorporate public comments into its decision-making process.

Throughout this sunset review, a popular topic of conversation related to the extent to which the Commission and its various proceedings are accessible to the public. While the regulated utilities and various interest groups may have a relatively easy time participating in proceedings before the Commission, the same cannot be said for the typical Coloradan or organizations less familiar with the PUC.

The PUC has worked to encourage public participation, prompted in part by the equity requirements in SB21-272. Indeed, certain high profile and impactful proceedings have received hundreds of public comments and strong engagement at comment hearings. Despite these efforts, the complex and formal, legalistic nature of much of the PUC's work makes it an intimidating and confusing entity to engage with. Although certain proceedings are formally binding and appealable to the courts, necessitating a certain degree of formality and adherence to the rules of evidence, there is value in ongoing efforts to welcome and incorporate input from the public in decisions rendered by the Commission.

The seventh sunset criterion asks, in part, whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

As such, the Commission should continue to strive to incorporate public comments in its decision-making process and to hear from diverse voices. Doing so will empower consumers to be engaged in the decision-making process and build greater understanding of the work of the Commission and its impact on Coloradans.

Energy

Recommendation 4 – Modernize certain energy statutes for transparency and clarity, and to remove redundant requirements.

Many of the industries regulated by the Commission continue to evolve and change over time. This is certainly true for the energy sector. This recommendation contains several parts, all offered as part of a concerted effort to modernize processes, clarify certain inconsistencies and to improve transparency.

Recommendation 4A – Modernize the Renewable Energy Standard (RES) to promote retail distributed generation and storage that benefits the grid and aligns the RES with Clean Energy Plans.

In 2004, the people of Colorado passed Amendment 37, which, among other things:¹⁷⁷

- Required large electric utilities to generate a certain percentage of their electricity from renewable resources beginning with three percent by 2007 and increasing to 10 percent by 2015;
- Defined renewable resources as solar, wind, geothermal, biomass, small hydroelectricity and hydrogen fuel cells;
- Required utilities to offer rebates and other incentives for solar electricity generation;

¹⁷⁷ Ballotpedia. *Colorado Amendment 37, Renewable Energy Sources for Utilities Initiative (2004)*. Retrieved August 11, 2025, from [ballotpedia.org/Colorado_Amendment_37_Renewable_Energy_Sources_for_Utilities_Initiative_\(2004\)](https://ballotpedia.org/Colorado_Amendment_37_Renewable_Energy_Sources_for_Utilities_Initiative_(2004))

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- Limited the impact of renewable energy costs on customers at no more than \$0.50 per month; and
 - Tasked the Commission with developing rules to implement the amendment.

Amendment 37 was codified in the statute as the RES, and the target was eventually amended such that utilities were required to derive 10 percent of retail sales by 2020.¹⁷⁸

Additionally, the codified RES includes multiple types of programs to incentivize the development of renewable resources, mandates various calculations to ascertain whether targets are being achieved and creates a system of tradeable renewable energy credits.

The programs created under the RES are implemented by the utilities and, thus, vary by utility and include, but are not limited to:

- Net metering, which allows customers to sell excess solar energy to the utility, thereby offsetting their electric bills;
- Programs that provide upfront incentives to install rooftop or on-site solar arrays;
- Programs that provide upfront and ongoing incentives for residential and small business customers who install battery storage systems that are completely charged with on-site solar.
- Programs that offer customers the option to generate clean energy using waste heat and steam that would not otherwise be used; and
- Programs that provide bill credits to customers who subscribe to community solar gardens.

Many of these programs provide enhanced incentives for income-qualified customers and members of disparately impacted communities.

By 2020, renewables accounted for 30 percent of Colorado's electricity generation,¹⁷⁹ surpassing the target set in the RES. Arguably, the goals and programs created by the RES, along with other market factors, contributed to Colorado exceeding the stated goal.

The General Assembly created the clean energy plan (CEP) by way of Senate Bill 19-236, which mandated that utilities with more than 500,000 customers in Colorado, excluding municipal utilities, reduce their carbon dioxide emissions by 80 percent (based on 2005 levels) by 2030 and by 100 percent by 2050.¹⁸⁰

Thus, the conversation shifted from generation to emissions. The two concepts are closely related, but sufficiently distinct to raise the question of the continued relevance

¹⁷⁸ § 40-2-124(1)(c)(V)(D), C.R.S.

¹⁷⁹ Colorado Energy Office. *Energy in Colorado*. Retrieved July 30, 2025, from energyoffice.colorado.gov/climate-energy/energy-in-colorado

¹⁸⁰ §§ 40-2-125.5(2)(a) and (c), C.R.S.

of the RES. If the emission reduction goals of the clean energy plan are to be attained, the goals of the RES will be attained several times over.

Whether and to what extent the RES remains relevant in today's world was a topic of lengthy discussion during the course of this sunset review. Some maintain that since the goals of the RES have been achieved and since the conversation has now shifted to focus on the emissions of generation sources, rather than the sources themselves, the RES is obsolete. Moreover, renewable energy is no longer a higher-cost option, as it once was, and it is growing to such an extent that curtailment is increasing. This means that such electricity is literally "dumped" from the grid without being used when generation from renewables exceeds demand.

Some maintain that various aspects of the RES, particularly the multitude of programs created thereunder, serve to incentivize distributed generation (which may well play a key role in the energy infrastructure of the future). So, they maintain, the RES should be retained, at least in part.

Still others maintain that given the uncertainty surrounding renewable energy and greenhouse gas reductions at the federal level, Colorado should refrain from taking action that would limit its ability to act alone, if necessary.

The fact remains that requiring full implementation of both the RES and CEP is a time-intensive exercise for utilities and for Commission staff that is already limited in resources and facing increasingly more complex cases. Strategic changes to the RES could both reduce workload for utilities and the PUC while retaining those provisions still relevant to current policy and legislative priorities.

The second sunset criterion asks whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less or the same degree of government oversight. As discussed earlier, the energy landscape has undergone change. This recommendation addresses changes warranted by that evolution.

Four important areas of conflict or inconsistency are:

1. ***Duplication of Efforts:*** Generally speaking, the same utility-scale resources that are used to comply with the CEP are also used to comply with the RES, and more of them will be required for the CEP. Yet, utilities are required to report on meeting both the RES and CEP renewable energy credit requirements, which results in redundant tracking and review by PUC staff.

The third sunset criterion asks whether existing statutes establish the least restrictive form of governmental oversight consistent with the public interest. Redundant reporting and tracking reports are, by their very nature, overly restrictive.

Therefore, the General Assembly should amend section 40-2-124(1)(c)(I), C.R.S., regarding the requirement for eligible energy resources to comprise up to 30 percent of sales by 2020 and create an additional target by, beginning in 2027, allowing utilities with approved CEPs that demonstrate compliance with the reduction target of the CEP to opt out of the RES requirements. Such utilities should still be required to file applications to support retail distributed generation and storage programs that provide grid value, and to submit the associated reports.

2. ***Calculation of the Rate Impact:*** Section 40-2-124 (1)(g)(I)(A), C.R.S., states that the retail rate impact of the RES “shall be determined net of alternative sources of electricity supply from noneligible¹⁸¹ energy resources that are reasonably available at the time of the determination.” Since the state is no longer pursuing electricity supply from noneligible energy resources, and because renewable energy cannot be presumed to always be higher-cost than fossil fuel resources, this comparison is no longer relevant or functional. Instead, it creates a complex, counterfactual modeling requirement that makes it challenging to predict the amount of funding that may be available for distributed solar or storage programs in a given year.

The third sunset criterion asks whether existing statutes establish the least restrictive form of governmental oversight consistent with the public interest. Requiring complex modeling that no longer reflects market conditions or state policy goals is, by its very nature, overly restrictive.

Therefore, the General Assembly should amend section 40-2-124(1)(g)(I)(A), C.R.S., to eliminate the complex counterfactual calculations regarding renewables by specifying that the retail rate impact should be based on the cost of the retail distributed programs offered by the utility, as determined by the Commission, and repealing language referring to noneligible energy sources.

3. ***Programmatic Goals:*** The RES has been instrumental in driving incremental solar, particularly distributed and community solar, across the state. With the increasing levels of utility-scale, distributed and community solar, balancing the electrical grid now requires the curtailment of significant amounts of solar and wind generation. This is already a problem and is projected to grow. The RES was appropriately focused on driving investment in solar when it was established in 2004, but the language should now be updated to promote more strategic investment in distributed solar and storage based on locational value. This is consistent with the direction of more recent legislation regarding virtual power plants, non-wires alternatives and dispatchable distributed generation, as outlined in Senate Bill 24-207 and Senate Bill 24-218.

¹⁸¹ “Noneligible energy resources” are those that are not renewable.

The second sunset criterion asks whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less or the same degree of governmental oversight. The RES was established to stimulate investment in solar energy. That mission was successful, but now it should be updated to promote more strategic investments based on location.

Therefore, the General Assembly should amend section 40-2-124(1)(c)(I)(E), C.R.S., to repeal the requirement that distributed generation be at least three percent of retail sales. This provision, along with the associated reporting, was designed to encourage and track distributed solar adoption before it became more affordable and widely available.

4. ***Municipal and Cooperative Utility Requirements:*** The RES contains several reporting requirements for municipal and cooperative utilities. However, since the Commission lacks jurisdiction over these utilities, the Commission collects these reports but takes no action, such as review and approval.

The third sunset criterion asks whether existing statutes establish the least restrictive form of governmental oversight consistent with the public interest. Requiring reports upon which no action is taken is, by its very nature, overly restrictive.

Therefore, the General Assembly should amend sections 40-2-124(4), C.R.S., as it pertains to municipal utilities and section 40-2-124(5.5), C.R.S., as it pertains to electric cooperatives to specify that the reporting requirements apply to such utilities only if they are not in compliance with the CEP.

Recommendation 4B – Direct the PUC to commission a study into the joint procurement of advanced technology generation resources, wind, solar, and transmission between jurisdictional and non-jurisdictional utilities.

As with most industries, purchasing power and economies of scale play an important role in the electric sector. Larger utilities attract more participation from generation and transmission project developers and larger projects cost less on a per-unit basis. This leads to larger utilities having access to more competitively priced projects when procuring new energy resources than their smaller utility counterparts. Ratepayers of smaller electric utilities would likely benefit from a system that reduces the barriers to co-development of energy projects, providing them with access to better financing options, better economies of scale and more overall competitive pressure.

These matters are further complicated by competing forms of generation, such as wind and solar, storage and transmission, as well as the existence of organized wholesale markets.

The third sunset criterion asks whether existing statutes establish the least restrictive form of governmental oversight consistent with the public interest.

As electric rates continue to rise, it is reasonable to explore all options for containing costs.

Therefore, the General Assembly should direct the PUC to commission a study to identify barriers to joint procurement by electric utilities of advanced technology generation resources, wind generation, solar generation, conventional or innovative storage, and transmission. The study should further address how barriers may vary across jurisdictional and non-jurisdictional utilities and propose solutions to reduce such barriers. Finally, the study should examine whether and how participation in an organized wholesale market creates or reduces barriers to joint resource procurement.

Recommendation 4C – Maximize the efficiency and impact of utilities’ customer-facing programs.

Since 2007, Colorado has adopted several statutes that direct investor-owned utilities regulated by the Commission to implement customer-facing programs aimed at reducing energy bills and that support reducing energy consumption and the transition to lower or zero-carbon emitting technologies. These include demand side management, beneficial electrification, clean heat plans and transportation electrification.

However, for many of these programs, utilities lack a natural incentive to take certain actions or implement these programs effectively. For example, an electric utility has little incentive to support well-managed electric vehicle charging that reduces capital spending on infrastructure upgrades. Additionally, smaller utilities may lack the ability (due to staffing or economies of scale) to operate programs at a reasonable cost to ratepayers. Lastly, certain ratepayer affordability programs that are currently implemented by a third party are done without a competitive process and with limited oversight of ratepayer dollars. At the same time, recently established state enterprises, such as the Building Decarbonization Enterprise created by House Bill 25-1269, may provide an alternative option for administering competitive solicitations for third-party program administration.

The fifth sunset criterion asks, in part, whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes. Increased accountability regarding ratepayer dollars is in the public interest.

Therefore, the General Assembly should explicitly authorize the Commission to require utilities to administer specific customer-facing programs through one or more third parties, if deemed prudent and in the best interest of ratepayers. This authorization should grant the Commission the ability to require a competitive bidding process, whether that process is managed by the PUC or another party, to procure the services of a third-party implementer.

Recommendation 4D – Clarify the applicability of the Commission’s appeals process for critical energy production and transmission projects.

In section 29-20-108(1), C.R.S., the General Assembly,

finds, determines and declares that location, construction, and improvement of major electrical and natural gas facilities are matters of statewide concern.

Major electrical or natural gas facilities are defined as including:¹⁸²

- Electrical generating facilities;
- Substations used for switching, regulating, transforming or otherwise modifying the characteristics of electricity;
- Transmission lines operated at a nominal voltage of 96,000 volts or above;
- Structures and equipment associated with such electrical generating facilities, substations or transmission lines; or
- Structures and equipment utilized for the local distribution of natural gas service, including, but not limited to, compressors, gas mains and gas laterals.

While the statute requires local land use regulations to include a process for the permitting of such facilities,¹⁸³ it also allows certain utilities and power authorities the ability to appeal to the Commission, a local government decision to deny a permit for these facilities:

If a local government denies a permit or application of a public utility or power authority that relates to the location, construction, or improvement of major electrical or natural gas facilities, or if the local government imposes requirements or conditions upon such permit or application that will unreasonably impair the ability of the public utility or power authority to provide safe, reliable, and economical service to the public, the public utility or power authority may appeal the local government action to the [Commission] . . .¹⁸⁴

To file an appeal with the Commission, one of the following conditions must exist:¹⁸⁵

- The utility or power authority applied for or has obtained a CPCN from the Commission for the facility at issue;
- A CPCN is not required for the facility; or
- The Commission has previously entered an order that conflicts with the local government action.

¹⁸² § 29-20-108(3)(a), C.R.S.

¹⁸³ § 29-20-108(2), C.R.S.

¹⁸⁴ § 29-20-108(5)(a), C.R.S.

¹⁸⁵ §§ 29-20-108(5)(a)(I-III), C.R.S.

However, this language was drafted before Colorado's energy mix included wind and solar farms, battery storage or independent power producers. The lack of clarity in the statute calls into question which utilities beyond those regulated by the Commission, and power authorities, may file an appeal with the Commission and for which types of projects.

Cooperative electric associations and municipalities have voted to exempt themselves from Commission regulation. Similarly, independent power producers are not regulated by the Commission. Such entities must follow a different process for local government siting and permitting authority, and to appeal a local government's decision on such matters, they must go through the state's courts.

This means that the appeals of nonjurisdictional utilities and independent power producers may be treated differently than those of jurisdictional utilities.

Ultimately, if such facilities are truly matters of statewide concern, then the appeals process should be the same regardless of whether the applicant is a jurisdictional utility, nonjurisdictional utility or an independent power producer.

The second sunset criterion asks whether conditions that led to the initial regulation have changed that would warrant more, less or the same degree of governmental oversight. The fifth sunset criterion asks, in part, whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes.

Conditions have changed since this process was initially enacted. Today, more than just jurisdictional utilities develop and construct the facilities that the General Assembly has already declared to be matters of statewide concern.

Similarly, the current appellate process establishes a different set of rules for appealing local government decisions related to facilities the Commission has already deemed necessary.

Therefore, the General Assembly should clarify that all municipal utilities, rural electrical cooperative associations and independent power project developers may appeal local land use decisions to the Commission for any type of energy resource facility built or acquired by these entities to serve their customers.

Recommendation 5 – Authorize the Commission to direct investor-owned electric utilities to use securitization as an alternative means of financing and recovering costs as compared to traditional methods when securitization is shown to lower ratepayer costs.

Securitization, as applied to Colorado investor-owned electric utilities, entails the recovery of costs incurred in the provision of service to customers through a non-

bypassable charge on customer bills for the purpose of securing lower financing costs as compared to the financing costs reflected in traditional rates established by the Commission. The lower financing costs achieved by securitization are intended either to materially lower overall costs to ratepayers or to avoid or mitigate rate impacts to them.

The General Assembly first empowered the Commission to implement securitization in 2019 through the enactment of Senate Bill 19-236. This bill enabled electric utilities to ask for the authority to issue revenue bonds subject to certain filing and approval standards.

The primary means by which utilities earn their profits is through their “rate base.” This refers to the process by which a utility invests in capital infrastructure, such as transmission lines and power plants, and then recovers that initial investment and any related profits by passing along the associated costs to ratepayers according to the utility’s Commission-approved return on equity. By this mechanism, the utility profits from the construction and maintenance of infrastructure.

Thus, a utility has a natural incentive to include as many investments as possible into its rate base because doing so will increase its profitability.

Securitization is one way by which a utility can invest in capital infrastructure without increasing its rate base. Given the economics described above, securitization is not necessarily in the utility’s best financial interests, but it may be in ratepayers’ best financial interests.

However, the Commission’s statutory authority to issue a financing order to implement securitization is limited to the filing of an application by a utility at its sole discretion. Securitization is further limited to costs associated with the early retirement of coal plants and with the implementation of approved wildfire mitigation plans.

The Commission may uncover potential opportunities to apply securitization beyond coal plant retirements and wildfire mitigation plans during its review of electric and gas rates in rate base proceedings or through the course of proceedings that address electric resource plans, distribution system plans, beneficial electrification plans, and other plans involving significant capital expenditures.

Utilities typically face reduced potential for future earnings when securitization is implemented. Opportunities for customer savings or other benefits from securitization may thus be foreclosed if the Commission remains unable to direct utilities to file for approval of financing orders because such applications are filed solely at the utility’s discretion.

The second sunset criterion questions whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would require more, less, or the same degree of governmental oversight.

Much has changed since the General Assembly first authorized securitization. Though electric rates in Colorado remain below the national average, a variety of factors, including federal policy changes, will continue to place upward pressure on rates in the future. Additionally, as the state moves to reduce greenhouse gas emissions and its reliance on natural gas as heating and cooking fuel, gas utilities continue to build gas infrastructure to support new construction and to maintain existing infrastructure, as they are required to do. But if and when that infrastructure, which today is included in a utility's rate base, is no longer needed, it will become a "stranded asset," which means it is rate base upon which the utility may continue to earn its Commission-approved return on equity, but which no longer benefits ratepayers.

For all these reasons, the General Assembly should authorize the Commission to direct investor-owned utilities to use securitization as an alternative means of financing and recovering costs as compared to traditional methods when securitization is shown to lower ratepayer costs.

Recommendation 6 – Direct the Commission to standardize implementation and access to the various Percentage of Income Payment Programs (PIPPs) and to study the PIPP concept more generally to determine whether funding access and equity can be improved.

Currently, there are five main programs in the state that provide energy assistance benefits:

- Low Income Energy Assistance Program (LEAP), which is implemented by the Colorado Department of Human Services;
- Weatherization Assistance Program (WAP), which is implemented by the Colorado Energy Office;
- Energy Outreach Colorado Bill Assistance, which is implemented by Energy Outreach Colorado (EOC);
- Energy Electronic Benefits Transfer (EBT) program, which is implemented by the Colorado Department of Human Services; and
- Percentage of Income Payment Plans (PIPP), which are implemented by Commission-regulated gas and electric utilities.

The PIPPs are implemented by the Commission-regulated investor-owned gas and electric utilities, and customers are referred to them by the other programs outlined above.

While these utilities are required to have a PIPP, there is variation in how customers apply, how their eligibility and benefits are calculated and when they are enrolled and re-enrolled.

For example, the statutory definition of an income qualified household is 60 percent of state median income, 80 percent of area median income or 200 percent of the federal poverty level, whichever is higher. However, the individual programs that refer customers to the PIPP use different eligibility requirements.

To illustrate, one utility allows customers to apply directly through its website for PIPP but requires customers to enter their 10-digit LEAP Household Identification Number. This means that the customer must first apply for and receive LEAP benefits, which uses the 60 percent of state median income eligibility criterion, before they can apply for the utility's PIPP. The others do not have a similar requirement.

Once a customer is referred to a utility's PIPP, the utility calculates the percentage of that customer's bill that is deemed affordable using the customer's income and historical energy usage. Some utilities consider LEAP benefits to be part of the customer's income, while others do not.

Additionally, one utility enrolls customers into its PIPP on a rolling basis, requiring re-enrollment 12 months later. Other utilities also allow enrollment on a rolling basis, but they require re-enrollment on October 31 each year. This can be particularly confusing for customers that use one utility for gas and another for electricity.

Thus, the current system is confusing, and customers are treated differently based on their respective utilities. Customers also receive different financial support depending on the service territory in which they live. One utility may have a higher percentage of low-income residents and end up with years-long PIPP waiting lists, while another utility may have an excess of PIPP funding. This difference in funding, in combination with varied implementation strategies of PIPP, leads to unequal support across utilities.

The first sunset criterion asks whether regulation is necessary to protect the public and the fourth sunset criterion asks whether agency rules enhance the public interest and are within the legislative intent.

Energy affordability programs represent a critical component of the state's ability to complement affordable housing programs and are embedded in the Commission's mission to ensure safe, reliable and affordable utility service for all Coloradans. However, the way in which these programs have been implemented is inconsistent and inequitable.

PIPPs and other energy affordability programs and agencies across the state are funded by ratepayer money. However, there is no competitive process for the implementation and distribution of ratepayer funding. This lack of accountability can lead to an inefficiency of funding for energy assistance programs.

For all these reasons, the General Assembly should direct the Commission to standardize implementation and access to the utilities' PIPP and to study the PIPP concept more generally to determine whether funding access and equity can be improved.

Transportation

Recommendation 7 – Authorize the Commission develop TNC driver facial recognition requirements in rule and amend statute to include a criminal penalty for driver impersonation.

Driver turnover rate in the transportation network company (TNC) market in Colorado is often high. As a result, there are concerns of what is commonly referred to as “driver impersonation.” This occurs when someone who is not currently authorized by a particular TNC to drive on their behalf, logs into the account of a legitimate TNC driver and poses as that driver. This may occur with or without the legitimate driver’s permission. Regardless, the result is an unauthorized driver providing TNC services to riders, thereby jeopardizing public safety, and driver-on-rider assaults have taken place under such circumstances.

As a preventative measure, some TNCs already utilize some form of facial recognition monitoring of their drivers to ensure the driver’s identity, although the level of similarity in facial recognition procedures from one TNC to the next is not currently known.

Furthermore, there are currently no laws specifically prohibiting TNC driver impersonation in Colorado. Statute indirectly prohibits TNC driver impersonation, since all TNC drivers are required to successfully complete a qualification process, and given these requirements, the Commission does have the authority to assess penalties in the event that this process is not followed. However, if an individual were to commit the act of TNC driver impersonation, there is currently no legal requirement that law enforcement be involved or notified, since TNC driver impersonation is not a criminal act in itself.

As of the writing of this report, six states have enacted legislation to add some form of criminal penalty for TNC driver impersonation, including Florida, Illinois, North Carolina, Oregon, South Carolina, and Tennessee. Although the laws enacted in each state vary, several states’ laws contain similarities, including the penalty of a criminal misdemeanor charge for the act of impersonating a TNC driver, with the potential to elevate the charge to a felony if other felonies were also committed during the act of impersonation.

The first, fifth, and tenth sunset criteria ask,

Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare;

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices...; and

Whether complaint, investigation, and disciplinary procedures adequately protect the public...

In recent years, TNCs have become thriving businesses that are often an integral component in the available transportation service options for consumers throughout Colorado. Likewise, consumers place a great deal of trust in the company that they utilize to ensure that the driver's identity is confirmed.

TNC companies currently employ many procedures and technological processes to ensure rider safety, of which facial recognition is only a part. However, there are a variety of TNCs providing services in Colorado, utilizing a variety of techniques to ensure that driver impersonation is prevented. If the Commission were to establish specific processes in rule to be followed by TNCs for periodic checks through facial recognition confirmation, risks regarding TNC driver impersonation may be further minimized by helping to ensure that the person driving the TNC vehicle is, in fact, the authorized TNC driver.

Additionally, authorizing the Commission to develop rules regarding TNC driver facial recognition could also provide an opportunity for a stakeholder process with open meetings, enabling stakeholders to provide input regarding the development of any related rules. This rulemaking process would also help to ensure standardization among the procedures employed by TNCs regarding this important safety feature, which is in the public interest. Section 40-10.1-603, C.R.S., limits regulation of TNCs by the Commission to those regulatory elements specifically stated in statute. Therefore, statutory language must be incorporated into statute to allow the Commission to set rules regarding facial recognition.

Lastly, establishing a criminal penalty for TNC driver impersonation would criminalize the act itself, and allow law enforcement to become more immediately involved if impersonation were to occur. The establishment of a criminal penalty may potentially deter some bad actors from attempting to impersonate a driver in the first place and would create legal consequences for those who do attempt impersonation, which would help to protect the public health, safety and welfare. For these reasons, the General Assembly should authorize the Commission to develop TNC driver facial recognition requirements in rule and amend statute to include a criminal penalty for driver impersonation.

Recommendation 8 – Authorize the Commission to require TNCs to annually submit to the Commission all safety-related incident reports, redacted to protect personally identifiable information, and authorize the PUC to make the reports publicly available.

Section 40-10.1-605, C.R.S., addresses a variety of operational requirements for TNCs, which are all fundamentally meant to ensure the safety of TNC drivers and riders, including possessing a valid driver's license and certification of medical fitness,

prohibitions on drivers working more than 12 consecutive hours, requiring vehicle safety inspections, and mandated driver criminal history checks.

Despite these protections, safety incidents impacting TNC drivers and riders do occur, and accurate data on the frequency and seriousness of these incidents is not available to the PUC.

Further, the PUC has not typically received incident reports directly from riders or drivers. This is likely because of a lack of public awareness that the Commission has regulatory oversight regarding TNCs.

The first, fifth, tenth, and fourteenth criteria ask,

Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare;

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity; and

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Driver and rider safety is an important component of the Commission's regulatory authority, and access to TNC safety reports will help to ensure that the Commission is establishing rules that will adequately protect the public.

Therefore, the General Assembly should authorize the Commission to require TNCs to annually submit to the Commission all safety-related incident reports, redacted to protect personally identifiable information, and authorize the PUC to make the reports publicly available.

Recommendation 9 – Provide the Commission with the authority to make rider refusal reports provided by TNCs publicly available in a redacted format.

Section 40-10.1-605(6)(a), C.R.S., states,

A transportation network company shall provide services to the public in a nondiscriminatory manner, regardless of: Geographic location of the departure point or destination once the driver and rider have been

matched though the digital network; race; ethnicity; gender; sexual orientation...; gender identity...; gender expression...; or disability that could prevent customers from accessing transportation.

Section 40-10.1-605(7)(a), C.R.S., states,

A transportation network company is not liable for a driver's violation of subsection (6) of this section unless the driver's violation has been previously reported to the transportation network company in writing, and the transportation network company has failed to reasonably address the alleged violation...

Additionally, statute clarifies instances in which the driver may refuse service to a rider, including:¹⁸⁶

- The passenger is acting in a disorderly, endangering, or unlawful manner;
- The passenger is unable to care for themselves and is not accompanied by a responsible companion; or
- The driver has already committed to providing a ride to another rider.

Further, statute also provides an exception that prevents liability of TNCs in the event that a driver refuses to provide accessible service.

In sum, statute currently prohibits a TNC driver from refusing services to a rider based upon discrimination. However, if a driver does refuse services to a rider based upon any of the elements mentioned in subsection (6)(a), the TNC company itself is not considered liable as long as the company has not “failed to reasonably address the alleged violation.”

TNCs are already required by statute to submit annual reports to the PUC regarding incidents of rider refusal. Section 40-10.1-605(9), C.R.S., states,

A driver shall immediately report to the [TNC] any refusal to transport a passenger...and the [TNC] shall annually report all such refusals to the Commission in a form and manner determined by the Commission.

Additionally, the Commission has established rules regarding the types of information that must be submitted in the annual refusal reports, including, but not limited to:¹⁸⁷

- The TNC's name and permit number,
- The date range of the report,
- The identity of the driver,

¹⁸⁶ 40-10.1-605(6)(a)(I) through (III), C.R.S.

¹⁸⁷ Code of Colorado Regulations: Public Utilities Commission, Rule 6720(a) through (c).

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- The reason for the refusal,
 - The date of the requested ride,
 - The address from which the ride was requested,
 - The destination upon which the ride was intended,
 - The reason that the ride was refused, and
 - Any discipline administered to the driver as a result of the rider refusal.

Throughout the sunset review, stakeholders expressed concern that rider refusal rates among TNCs are not publicly available. For example, it is unclear whether rider refusal may be occurring in some portions of the state more than in others, the types of rider refusals that are occurring, as well as the methods that TNCs are utilizing to address incidents of rider refusal with their drivers, including additional education requirements, disciplinary actions, or driver dismissal when warranted.

Since TNCs are already submitting reports that contain this information, the public could be allowed to view these reports. However, since the current format of reporting contains information that may be considered sensitive, such as driver names and the addresses of specific rides offered, the reports should be redacted to protect any personally identifiable information.

The fifth, tenth, and fourteenth sunset criteria ask,

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices...;

If reviewing a regulatory program, whether complaint, investigation, and disciplinary procedures adequately protect the public...; and

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

The public has expressed both interest and concern regarding TNC drivers refusing service, particularly if any element of discrimination may have occurred.

TNC companies are already required to submit this information to the PUC, but none of the information in the reports is publicly available. Allowing the data contained within these reports to be released in a redacted manner would allow the public to ascertain how frequently refusals are occurring, where they are occurring, as well as any disciplinary action that TNC companies are taking to ensure that refusals are not reoccurring with the same drivers.

By making these reports publicly available, consumers can make more informed decisions, and data could also be evaluated from a policy perspective to detect any patterns or trends, if they exist, regarding the frequency and location of ride refusals.

Therefore, the General Assembly should provide the Commission with the authority to make rider refusal reports provided by TNCs publicly available in a redacted format.

Recommendation 10 – Repeal section 40-10.1-605(7)(a), C.R.S., and raise the fine for refusal of service to increase TNC’s accountability in applicable situations.

Section 40-10.1-605(6)(a), C.R.S., articulates that TNCs must “provide services to the public in a nondiscriminatory manner.” Further, this section of statute provides scenarios in which a TNC driver must not refuse services to a rider, unless:

- The passenger is acting in an unlawful, disorderly, or endangering manner;
- The passenger is unable to care for themselves and is not in the charge of a responsible companion; or
- The driver has already committed to providing a ride for another rider.

Additionally, section 40-10.1-605(7)(a), C.R.S., states,

A [TNC] is not liable for a driver’s violation of subsection (6) of this section unless the driver’s violation has been previously reported to the [TNC] in writing, and the [TNC] has *failed to reasonably address* the alleged violation . . . [emphasis added]

The associated fine for a violation of this conduct is currently \$550.¹⁸⁸

In sum, the burden of proof required to hold a TNC accountable may be difficult to demonstrate, since statute currently requires that the TNC need only have made an attempt to reasonably address the alleged violation. Instead, statutory clarification regarding the process whereby the Commission can establish its investigatory and hearing procedures in the event that a refusal is alleged to have occurred may be beneficial to improve transparency and eliminate any confusion regarding the Commission’s regulatory authority.

Section 40-7-116, C.R.S., already provides statutory language regarding the enforcement of civil penalties and due process rights, including that respondents are entitled to proper notice, and a hearing, and that the PUC assumes the burden of proof in the matter. This standard is tethered to TNCs pursuant to section 40-10.1-606(5)(a), C.R.S.

If section 40-10.1-605(7)(a), C.R.S., were repealed, there would be greater statutory uniformity regarding civil penalty assessment notices, which may also incentivize TNCs to take more robust action to eliminate, or at least significantly reduce, the volume of

¹⁸⁸ § 40-10.1-605(7)(b), C.R.S.

refusal of service situations, especially those involving individuals riding with service animals.

If the associated fine of \$550 were raised to \$1,100, this may also serve as a greater deterrent, helping to ensure that instances of rider refusal are promptly and appropriately addressed to prevent reoccurrence.

The second, tenth, and fourteenth sunset criteria ask,

Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight;

Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity; and

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

These statutory changes would provide the PUC with the ability to more easily investigate and substantiate liability for refusal of service situations, widen the scope of the types of situations that are subject to potential penalties, and increase the fine schedule for violations. For these reasons, the General Assembly should repeal section 40-10.1-605(7)(a), C.R.S., and raise the fine for refusal of service to increase TNC's accountability in applicable situations.

Recommendation 11 – Authorize the Commission to set a requirement in rule that TNC companies provide the PUC's contact information to riders.

The Commission has established rules regarding mandatory information that must be provided to taxicab riders informing them of the Commission's regulatory authority, so that riders know who they can contact in the event of an issue.

TNCs do not currently have this requirement, and as was previously mentioned, in order for the Commission to promulgate rules regarding this type of notification, statute must be amended in order to provide the Commission with the authority to craft similar rules for TNCs.

The fifth and fourteenth sunset criteria ask,

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters; and

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Since taxicab riders are provided with information regarding the Commission's regulatory authority, TNC riders should also be afforded the same opportunity. This could be accomplished in any number of ways: a placard in the TNC vehicle itself, a notice on the post-ride receipt or a required disclosure in the application used to hail the TNC.

For all these reasons, the General Assembly should authorize the Commission to set a requirement in rule that TNCs provide the PUC's contact information to riders.

Recommendation 12 – Amend section 40-10.1-110, C.R.S., to include the requirement of background checks for drivers of all passenger carriers holding a certificate of public convenience and necessity or a contract carrier permit.

Section 40-10.1-110, C.R.S., establishes requirements for certain types of regulated drivers of passenger carriers to complete background checks, which can result in temporary or permanent disqualification if the background check uncovers a criminal offense that may carry a safety impact, such as a sexual assault conviction or driving under the influence of drugs or alcohol.

However, the statute only applies to drivers operating as limited regulation carriers (luxury limousines, for example), large-market taxicab services, and other services that hold a certificate of public convenience and necessity (CPCN) that specifically engage in taxicab services. In other words, the statutory reference does not cover other types of passenger carriers, including shuttles, call-and-demand, traditional sightseeing, and contract services. TNCs already have established background check procedures in statute, are not defined as motor carriers, and are not included in this recommendation.

The first, tenth, thirteenth, and fourteenth sunset criteria ask,

Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare;

Whether complaint, investigation, and disciplinary procedures adequately protect the public...;

Whether the agency, through its licensing, certification, or registration process, imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests; and

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Expanding the requirement for background checks to other passenger carriers helps to create statutory uniformity and provides additional protections to the public health, safety, and welfare. Therefore, the General Assembly should amend section 40-10.1-110, C.R.S., to include the requirement of background checks for drivers of all passenger carriers holding a certificate of public convenience and necessity or a contract carrier permit.

Recommendation 13 –Direct the PUC to conduct a study on the current regulatory structure for fully regulated intrastate carriers, including aspects of market entry and economic regulation, and require the PUC to submit its recommendations to the General Assembly by January 1, 2028.

In order to be issued a CPCN, both contract and common carriers must submit to market entry standards, including seeking the Commission’s approval for the requested authority. While the Commission will grant any complete and unopposed application, full adjudication is necessary when other carriers operating in the same area have intervened against the authority being pursued.

Interventions, which allow incumbent carriers to protect their property rights, either by right or permission, can significantly prolong the process, which may include elements such as negotiations, settlements, motions, prehearing conferences, evidentiary hearings, and Commissioner or administrative law judge deliberations.

In addition, fully regulated intrastate carriers (common or contract) are also required to submit to economic regulation, through the filing of Commission-approved tariffs which set the rate structures the carriers must utilize as part of their operations. These are also pursued through formal Commission proceedings, whereby the carrier submits financial information, data, and other justification for the proposed rates. This process is also necessary if at any point the carrier chooses to pursue an increase or decrease to the currently approved rate structure.

Common carriers are defined as public utilities, pursuant to section 40-1-103(1)(a)(I), C.R.S., and their rates must be just and reasonable, in order to protect the public, pursuant to section 40-3-101(1), C.R.S.

These current structures have been the status quo for nearly 75 years, and the justification for these frameworks was even successfully argued in front of the Colorado Supreme Court as recently as 2023.¹⁸⁹

¹⁸⁹ *Batayneh v. Dean*, Colorado Court of Appeals, 2023.

However, arguments could be made that the current market entry processes can create burdens on new (and often smaller or start-up) carriers attempting to find a place within the industry. The intervention process can be daunting, especially when entrenched carriers have a better knowledge of the Commission and its procedures and have greater access to resources, including legal representation.

The vast majority of transportation carriers elect to represent themselves in front of the Commission, in a *pro se* format, and the potentially negative ramifications of this may also be compounded when they are individuals for whom English is a second language.

Furthermore, economic regulation can be an imposition for carriers, especially during times of uncertain inflationary pressures, such as sharp increases in gasoline prices. Under the current framework, these types of rate adjustments, even on a temporary basis, must go through the formalized process outlined above.

A study of these concepts, particularly from evidence-based or data-driven approach, could be helpful in exploring the current statutory makeup and addressing any potential changes to these standards. Some issues to be explored as part of the study may include addressing questions such as:

- Is the current model for market entry of common and contract carriers (such as regulated monopoly and regulated competition) still an appropriate standard to be implemented in Colorado, given factors such as the economic landscape and job creation? If not, to what extent might things be changed or modified?
- Is the current model for economic regulation of common and contract carriers which requires rate structures to be approved and set in a just, reasonable, and consistent manner for each passenger, still perceived as a benefit to the industry and consumers?
- What is the proper balance between service territory protections (such as regulated monopoly and regulated competition) and the potential burdens associated with these market entry and economic regulation standards?

The second, third, ninth, and fourteenth sunset criteria ask,

Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight;

Whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms;

Whether the agency stimulates or restricts competition; and

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Given the complexity of the current market entry processes and the potential overarching impacts to both related industries and consumers, a study of these important questions is needed to help guide the future of related regulation. Therefore, the General Assembly should direct the PUC to conduct a study on the current regulatory structure for fully regulated intrastate carriers, including aspects of market entry and economic regulation, and require the PUC to submit its recommendations to the General Assembly by January 1, 2028.

Recommendation 14 – Authorize the Commission to align vehicle inspection requirements for motor carriers in rule.

In order to obtain a permit from the Commission, motor carriers must first obtain an inspection of any vehicle that is intended for operation by the use of the applicant. Currently, there are differing standards amongst various motor carrier types regarding when an inspection must be performed.

For example, section 40-10.1-702(3), C.R.S., provides specific instructions for large-market taxicab services regarding the timeframe within which vehicle inspections must be conducted in order to receive a permit as,

...within *the immediately preceding twelve months* by a qualified mechanic in accordance with rules promulgated by the Commission.
[emphasis added]

However, for limited regulation motor carriers (including, but not limited to luxury limousines, charter buses, and off-road scenic charters), section 40-10.1-302(4), C.R.S., provides far less time to meet vehicle inspection requirements to receive a permit, stating that an applicant,

...must have each vehicle operated under the permit inspected *within the immediately preceding twenty days* by a qualified mechanic... [emphasis added]

Vehicle inspections are an important component to ensure public safety. However, some permit types provide less time for inspection for initial application, and some less time to complete inspections or require more frequent inspections than others upon renewal, which adds additional cost to some businesses over others, and may contribute to a barrier to entry into the industry for some permit types.

The first, third, and fifth sunset criteria ask,

Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare;

...whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest...; and

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.

In order to address these inconsistencies, relevant statutory sections should be modified to indicate that vehicle inspections may be accepted as a part of the permitting process in accordance with Commission rules. This would allow the Commission to make any changes to create alignment in the inspection process through open meetings and a stakeholder process, which is in the public interest. For this reason, the General Assembly should authorize the Commission to align vehicle inspection requirements for motor carriers in rule.

Recommendation 15 – Update statutory language to mirror current federal rail transit requirements.

During the sunset review process, Commission staff provided numerous examples of statutory provisions that require revision in order to incorporate new federal statutory language into state law for clarity and consistency. This includes the need to update state statute to reflect the current requirements located in the Code of Federal Regulations (CFR) (See 49 CFR Parts 673 and 674) regarding the federal Public Transportation Agency Safety Plan for transit rail, as well as statutory updates to match the federal requirements located in the U.S. Code (See 49 U.S.C. 5329 and 49 U.S.C. 5330).

The second and fourteenth sunset criteria ask,

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest; and

Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight.

Addressing any statutory changes needed to make state law consistent with federal law would increase statutory clarity and ultimately, enhance the public interest. Therefore, the General Assembly should update statutory language to match current federal rail transit requirements.

Telecommunications

Recommendation 16 – Modernize the Colorado No Call List Fee Cap

The State of Colorado created a No Call List prior to the establishment of the federal list, and the PUC continues to maintain it. Currently, the Commission annually establishes the fees that companies must pay to obtain the list. The state No Call List is managed by a third-party entity that receives the revenue, and the Department of Law prosecutes companies that violate requirements of the No Call List.

At this time, the No Call List has a funding problem since the fees for companies to access the list are capped at \$500 per year, and this cap has not been adjusted since the creation of the program in 2002.

The Commission is statutorily required to create a sliding fee scale for companies that purchase the list. However, the fees have reached the statutory limit, and a sliding scale will soon no longer be feasible. Additionally, if the fee cap is not adjusted for inflation, the Commission will no longer have sufficient funds to contract with a vendor to maintain the list.

The fifth sunset criterion asks, in part, whether the agency's operations are impeded by existing statutes, including budgetary and resource matters. Since the fee cap may soon render the No Call List insolvent, the cap impedes the Commission's ability to maintain it.

If the fee cap were modernized to account for inflation, it would be approximately \$1,000. As long as the fee cap is increased to this amount and Recommendation 17, which proposes that conforming list brokers also pay fees to obtain a copy of the list, is adopted, the No Call List should remain solvent.

Therefore, the General Assembly should modernize the No Call List fee cap established in section 6-1-905(3)(b)(II), C.R.S., by raising it to \$1,000.

Recommendation 17 – Require Conforming List Brokers to pay a fee to obtain the No Call List.

For companies to comply with the requirements of the No Call List, they must first obtain the list. To do this, they are required to pay a fee. The Commission annually establishes the No Call List fees based on a sliding scale as required in statute.

However, inexplicably, conforming list brokers, entities that obtain the No Call List and then sell it to other companies, are exempted from paying the fees required to obtain the list. In order for the No Call List to remain solvent, conforming list brokers, which profit directly from their sale of the list, should also be required to pay a fee to obtain it.

The fifth sunset criterion asks, in part, whether agency operations are impeded by existing statutes and any other circumstances, including budgetary matters.

For this reason, the General Assembly should require conforming list brokers to pay a fee to obtain the No Call List.

Recommendation 18 – Clarify Fees for Wireless and Voice-over-Internet Protocol Telecommunications Providers

Since the fees and service provided by wireless telecommunication providers are no longer regulated by the Commission, section 40-1-103(1)(b)(V), C.R.S., exempts them from the definition of a public utility. Additionally, Voice-over-Internet Protocol (VoIP) Providers are exempted from regulation by section 40-15-401(1)(r), C.R.S. As a result, they are also exempt from the fee assessed pursuant to sections 40-2-112 through 40-2-114, C.R.S., which funds the telecommunications section in the PUC.

Despite this, wireless telecommunications companies and VoIP providers still generate substantial work for the PUC. For example, wireless telecommunications service providers and VoIP providers often file applications for CPCNs in order to help obtain local building permits for wireless infrastructure, applications for certification as an Eligible Telecommunications Carrier (ETC) so they can participate in the federal Lifeline program for subsidized telephone service, file annual Letters of Registration for toll services, and file annual contact forms.

This work performed by the PUC staff consumes a significant amount of the PUCs resources, despite being generated by companies not required to pay into the fund that supports the Commission’s telecom responsibilities.

While these companies are no longer considered “public utilities,” they still rely on, and their customers still benefit from, work performed by the telecommunications section. However, only wired telephone companies or companies that voluntarily agree to contribute are assessed telecommunications fees, which means customers of these companies are paying a disproportionate amount to cover the costs of the PUC telecommunications section.

In order to ensure that all companies that create workload for the Commission are paying to cover those costs, a definition of telephone corporation should be adopted that includes all companies that provide voice service, regardless of the technology used.

Doing this would modernize the statutes, which were structured to support a regulatory model that no longer exists. It would also create more clarity in the statutes and ensure that telecommunications fees are equitably assessed.

First, a definition for telephone corporation should be added to section 40-1-102, C.R.S., as follows:

“TELEPHONE CORPORATION” MEANS ANY PERSON, COMPANY, OR ENTITY THAT PROVIDES TELECOMMUNICATIONS SERVICES INCLUDING, BUT NOT LIMITED TO, PROVIDERS OF WIRELESS, CELLULAR, OR MOBILE TELECOMMUNICATIONS SERVICES; INTERCONNECTED VOICE-OVER-INTERNET PROTOCOL SERVICES; LANDLINE OR WIRELINE TELECOMMUNICATIONS SERVICES; OR SATELLITE-BASED TELECOMMUNICATIONS SERVICES; REGARDLESS OF WHETHER THAT PERSON, COMPANY, OR ENTITY IS CONSIDERED A PUBLIC UTILITY PER SECTION 40-1-103, C.R.S. FOR THE PURPOSES OF THIS DEFINITION, “TELECOMMUNICATIONS SERVICE” AND “TELECOMMUNICATIONS” HAVE THE SAME MEANING AS SET FORTH IN 47 U.S.C. SEC. 153.

Second, this definition should be tied to revisions under section 40-2-112, C.R.S., which addresses the computation of fees, section 40-2-113, C.R.S., which addresses the collection of fees, and section 40-15-208, C.R.S., which addresses the high-cost support mechanism contributions.

Modernizing the statutes would ensure that funding for the telecommunications section is stable and fees are fairly assessed.

The fifth sunset criterion asks, in part, whether the agency’s operation is impeded by existing statutes and any other circumstances including budgetary matters.

Therefore, the General Assembly should adopt a definition of telephone corporations that includes all voice service providers and update the sections of the statutes that address fees computation, collection and contributions to the high-cost support mechanism.

Recommendation 19 – Update the statutes to reflect Federal Communications Commission guidance on acceptable use of 9-1-1 funds.

The Federal Communications Commission (FCC) establishes guidelines on the acceptable uses of 9-1-1 funds, which can be found in 47 CFR 9.21 through 9.26. The language in the Colorado statute mostly matches and complies with the FCC guidelines, but the FCC restricts the use of 9-1-1 funds on radio equipment to only be acceptable if the radio equipment is used for the provision of 9-1-1 service.

Section 29-11-104, C.R.S., lists what 9-1-1 funds can be spent on. Such funds include those raised from the 9-1-1 surcharge, the emergency telephone charge and the prepaid wireless 9-1-1 charge. Also, the expenditures of the 9-1-1 Services Enterprise, created in section 29-11-108, are limited to the expenses listed in section 29-11-104, C.R.S.

Currently the statute allows 9-1-1 funds to be spent on radio equipment outside of the Public Safety Answering Point (PSAP), or 9-1-1 center.

Under the federal law, the FCC is vested with broad authority to regulate communication technology and services. While federal law establishes a dual regulatory system with some regulatory authority resting with the states, in this case, federal law would preempt a conflicting state law. As such, the Colorado statute should be brought into alignment with the FCC guidelines.

The fourteenth sunset criterion asks, in part, whether statutory changes are necessary to improve agency operations to enhance the public interest. Current state law does not comply with federal requirements. The public interest will be better served by having a state law that conforms to federal requirements.

Therefore, the General Assembly should revise section 29-11-104(2)(a)(II), C.R.S., as follows:

If money is available after the costs and charges enumerated in subsection (2)(a)(I) of this section are fully paid in a given year, the money may be expended for:

- (A) Public safety radio equipment outside the PSAP THAT IS USED FOR DISPATCHING EMERGENCY SERVICE PROVIDERS TO RESPOND TO 9-1-1 CALLS; or
- (B) Personnel expenses necessarily incurred for a PSAP or the governing body in the provision of emergency telephone service.

Recommendation 20 – Modernize the statute to authorize the Commission to establish and enforce intrastate rate caps on incarcerated people’s communications services.

The FCC sets rate caps for communication services, such as telephone and video calls, for people who are incarcerated in the penal system. The purpose of these caps is to limit the rates charged by service providers, which according to the FCC, have burdened incarcerated people for decades.

The Commission is currently only authorized to monitor interstate rates charged by incarcerated people’s communications service (IPCS) providers. However, the FCC now sets intrastate rate caps, and the statute should be modernized to reflect this.

As the FCC establishes the rate caps for both intrastate and interstate IPCS communications, the Commission should be authorized to adopt intrastate rate caps, as long as they do not exceed those established by the FCC, and it should also be granted enforcement authority.

The first sunset criterion asks whether regulation is necessary to protect the public health, safety and welfare.

Historically, incarcerated people have been charged excessive rates in order to communicate with family, friends and other connections in the community.

Communicating with their family, friends and community is important to incarcerated people's mental health and general wellbeing. Importantly, communication services help to maintain important relationships, which supports them so that they may successfully transition when they are released. Considering this, ensuring incarcerated people are only charged reasonable rates to communicate with the outside world protects the health, safety and welfare of all Coloradans.

Providing the Commission with the authority to adopt and enforce these rates would provide Coloradans with better protection than they may have at the federal level. Additionally, the Commission would be able to adjust rates depending on the conditions in the state.

Therefore, the General Assembly should authorize the Commission to adopt intrastate rate caps, which do not exceed those established by the FCC, and the Commission should be granted the authority to enforce intrastate rate caps.

Recommendation 21 – Require service providers to cooperate with the biannual testing of IPCS services that Commission staff is statutorily required to perform.

The Commission staff are currently required to perform biannual testing on the IPCS systems and technologies being utilized within Colorado facilities that hold incarcerated people. This testing offers insight into the level that any given system is functioning while also ensuring that IPCS providers are adhering to the FCC intrastate rates. At this time, the statute requires penal facilities to cooperate with staff during testing, but it does not require cooperation from the IPCS providers themselves.

The sixth sunset criterion asks, in part, whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively.

Sometimes cooperation is necessary from the IPCS providers to conduct a thorough test. As the Commission staff are required to perform biannual testing and cooperation from the IPCS providers is at times necessary, the statute should be revised to require those providers to cooperate.

Therefore, the General Assembly should require IPCS providers to cooperate with Commission staff when it is performing biannual testing of IPCS services.

Pipeline Safety

Recommendation 22 – Repeal the requirement for a mandatory minimum penalty of \$5,000 for small operators of natural gas pipelines that violate a rule or order concerning pipeline safety.

Currently, section 40-7-117(2)(c), C.R.S., states that any civil penalty concerning pipeline safety may be reduced by the Commission based on consideration of objective metrics and factors set forth in rule. The metric and factors must include:

The extent to which the violator agrees to spend, in lieu of payment of part of the civil penalty, a specified dollar amount on Commission-approved measures to reduce the overall risk to pipeline system safety or integrity; except that the amount of the penalty payable to the Commission must be a minimum of \$5,000.

As the statute referenced above indicates, there are mechanisms in place that enable operators of natural gas pipelines to decrease the amount of a civil penalty if certain measures are taken to mitigate the overall risk to pipeline system safety or integrity. However, there is a minimum baseline civil penalty requirement of \$5,000. The \$5,000 minimum civil penalty applies to all natural gas operators, regardless of their size, including small operators, also known as master meter operators. A small operator is any gas distribution system operator that operates less than 1,000 natural gas distribution services.¹⁹⁰

Generally, master meter operators purchase gas from a public utility or gas company through a master meter. Master meter operators then resell the gas to individual users within the system, most commonly through smaller, individual meters. Master meter systems are small in scale and are typically located in places such as apartment complexes and mobile home parks.

In Colorado, there are currently 19 master meter operators under the jurisdiction of the Commission's Pipeline Safety Program. In calendar years 2022 and 2023, there were 11 master meter operators that paid the \$5,000 minimum civil penalty fine for violations of pipeline safety requirements. Although the statute enables the amount of a civil penalty to decrease when certain compliance metrics are met, the \$5,000 minimum civil penalty remains, and is particularly difficult for master meter operators to comply with due to their small size.

The \$5,000 minimum civil penalty could be utilized for system improvements rather than paying the fine to the Commission. For example, if there are deficiencies identified during an inspection, the master meter operator should have the opportunity to utilize their funds to make necessary repairs to ensure public safety rather than paying the required \$5,000 civil penalty.

¹⁹⁰ 4 C.C.R. § 723-1101 ccc, Rules Regulating Pipeline Operators and Gas Pipeline Safety

The third sunset criterion asks whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest. The minimum \$5,000 civil penalty requirement is overly restrictive, particularly for master meter operators. Instead of requiring the imposition of a minimum civil penalty for violations of the pipeline safety requirements, governmental oversight should initially focus on compliance with safety standards, which would be less restrictive on master meter operators and advance the public interest. Doing so would enable them to utilize their limited funds to ensure compliance rather than paying a civil penalty, and then still having to address any violations of safety standards.

As such, the General Assembly should repeal the minimum \$5,000 civil penalty requirement for small operators of natural gas pipelines from the statute. Doing so would enable small master meter operators to focus on compliance with existing pipeline safety standards to ensure consumers are protected from harm.

Water

Recommendation 23 – Direct the PUC to conduct a study of privately owned water utilities.

The Commission regulates the rates of four small, privately held water utility companies, some of which act as master meter operators for mobile home parks or other small developments. Pursuant to section 40-3-104.4, C.R.S., the Commission may grant less comprehensive regulatory treatment to these small entities and has done so through its rules.

However, because of maintenance needs, insurance and increasing regulation, such as the federal Environmental Protection Agency’s PFAS rules, these small private utilities are experiencing cost pressures that are spread over very small customer bases. As they are privately owned, for-profit water utilities, they typically do not qualify for grant programs that may be available for municipal water systems. As a result, these small water utilities may be at risk of failing.

If a private water utility fails, consumers do not have a provider of last resort. This puts the customers of private water utilities at risk of not having access to water.

Privately owned water systems can consider transitioning into special districts pursuant to section 32-1-202, C.R.S., which could provide access to more funding opportunities, but doing so requires legal support and can require significant resources. Alternatively, privately owned water systems could explore joining a municipal water system, if appropriate to the geographic area, but they may need to provide upfront funding to upgrade their system to meet the municipal utility’s standards.

The Commission asserts jurisdiction when it receives a complaint against a privately owned water utility. Unless it receives a complaint, the Commission does not always know where the privately owned water utilities are in the state.

The first sunset criterion asks whether regulation is necessary to protect the public health, safety and welfare.

The PUC should conduct a study that identifies all privately owned water utilities in the state, assesses their financial condition and analyze what options are available to transition them to special districts, municipal entities, public interest non-profits, member-owned non-profits or other solutions.

Such a study should also address any upgrade costs needed for maintenance or environmental reasons and whether a distinct funding stream should be available to support these efforts since there are no providers of last resort for this industry.

Therefore, the General Assembly should direct the PUC to conduct a study of privately owned water utilities.