COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVE 2025-2026 #312

MOTION FOR REHEARING

On behalf of Lynn Granger and Carly West (collectively, the "Objectors"), registered electors of the State of Colorado, the undersigned counsel hereby submit this Motion for Rehearing for Proposed Initiative 2025-2026 #312 ("Initiative #312") pursuant to C.R.S. § 1-40-107, and as grounds therefore state as follows:

This Motion seeks the Title Board's review for two reasons: (1) the Title Board lacks jurisdiction to set a title because Initiative #312 is vague, confusing, and unclear; and (2) the title set for the proposed measure fails to accurately describe the measure and would mislead voters.

I. THE TITLE BOARD LACKS JURISDICTION TO SET TITLE ON INITIATIVE #312 BECAUSE THE MEASURE IS SO VAGUE, CONFUSING, AND UNCLEAR THAT IT CANNOT BE UNDERSTOOD.

Initiative #312 is, on its face, vague, unclear, and confusing. The Colorado Constitution mandates that an initiative's single subject shall be clearly expressed in its title." *See In re Title, Ballot Title and Submission Clause for 2015-2016 #73, 369 P.3d 565, 568 (Colo. 2016).* The clear title standard requires that titles "allow voters, whether or not they are familiar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal." *Id.* The Board must consider the confusion that may arise from a misleading title and set titles that "correctly and fairly express the true intent and meaning" of a measure. *Id.* (quoting C.R.S. § 1-40-106(3)(b)). Based on these principles, if an initiative is so vague, confusing, or unclear that its true purpose cannot be understood, then the Title Board lacks jurisdiction to set a title. The Title Board has declined to set a title on this ground in the past, and it should similarly refrain from doing so here.

The proposed statutory text of Initiative #312 reads: "Utilities shall not raise utility rates of existing customers to pay any costs of a natural gas pipeline extension and its eventual decommissioning undertaken to serve new customers." The measure also includes an applicability clause limiting its application to ". . . contracts entered into on or after the effective date of this measure." On the face of the measure, two glaring question emerge.

First, how and to what extent does the measure encompass contract renewals? In the utility industry, contracts with local governments, which are often termed "franchise agreement," are ordinarily long-term agreements that, instead of getting replaced outright, are renegotiated or renewed. Does this measure encompass those renegotiated or renewed contracts? Or do they constitute "contracts entered into on or after the effective date of this measure"? As it stands, the answer to this question is not clear from the language of the measure. Accordingly, Title Board lacks jurisdiction to set title. *See In re 2015-2016 #73*, 369 P.3d at 568. And at a minimum, this open aspect of the measure needs to be addressed in the title, as further explained below.

Second, what are "new" customers in comparison to "existing" customers. Neither term is defined. This leads to multiple questions: is a customer that moves an "existing customer"? Are "new customers" only those being served by the extended natural gas pipeline? Does "existing" refer to the existing location or the person paying the utility bill? What if an existing customer starts requiring a different amount of service? Do they become a "new customer"?

II. THE TITLE FAILS TO ACCURATELY DESCRIBE THE MEASURE AND WOULD MISLEAD VOTERS.

Even if the Title Board were to affirm it has jurisdiction to set a title, setting the title drafted for Initiative #312 is problematic for at least four reasons. The title must be amended so that the title fully and accurately captures the measure's central features and does not mislead voters.

First, the title must make clear the measure's applicability is limited to future contracts, and does not impact existing contracts, including the typical long-term franchise agreements. Without this clarification, voter confusion is nearly inevitable. As explained above, most utility contracts with local governments are long-term franchise agreements entered into years, or even decades, ago. Accordingly, Initiative #312 will not have an immediate effect as to those existing contracts. This important aspect is not apparent from the title and must be adequately explained to voters.

Second, the title references "existing customers" and "new customers" without defining these terms. As described above, this will lead to confusion unless clarified for voters. To avoid voter confusion, the title must clearer inform voters who are "existing" customers and when are customers deemed "new."

Third, the phrase "later removing or retiring the extended pipeline" in the title must be modified by "new customers," as it is in the language of the measure itself. The text of Initiative #312 reads: "Utilities shall not raise utility rates of existing customers to pay any costs of a natural gas pipeline extension and its eventual decommissioning undertaken to serve new customers." To track the intent

and meaning of the measure, the title must be changed to read: "An amendment to the Colorado Constitution prohibiting utilities from raising utility bill rates of existing customers to pay for any costs associated with extending a natural gas pipeline ***or later removing or retiring the extended pipeline*** to serve new customers ~~or later removing or retiring the extended pipeline~~."

Fourth, as described above, and depending on the answer to the question posed above, the title must make clear whether the measure applies to contract renewals that occur on or after the effective date of the measure. Voters will undoubtedly be confused if the measure does *not* apply to contract renewals. In that case, the measure's applicability is extremely limited. Voters must be informed of this aspect of the measure.

The title must be amended to make these changes because otherwise the title would not "correctly and fairly express the true intent and meaning" of the measure. *See* C.R.S. § 1-40-106(3)(b). Indeed, Title Board's "duty is to ensure that the title, ballot title and submission clause, and summary fairly reflect the proposed initiative so that petition signers and voters will not be misled into support for or against a proposition by reason of the words employed by the board." *In re Ballot Title 1997–1998 # 62*, 961 P.2d 1077, 1082 (Colo. 1998) (quoting *In re Proposed Initiated Constitutional Amendment Concerning the Fair Treatment of Injured Workers Amendment*, 873 P.2d 718, 719 (Colo. 1994)).

CONCLUSION

Accordingly, the Objectors respectfully request that a rehearing is set pursuant to C.R.S. § 1-40-107(1) and that the Title Board grant this Motion.

Respectfully submitted this 22nd day of April 2026.

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