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Original Proceeding
Pursuant to Colo. Rev. Stat. §1-40-107(2)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2025-
2026 #312

Petitioner: EDWARD ANDREW LEIGHTY

v.

Respondents: SIDRA AGHABABIAN AND
JESSICA ARHONTOULIS

and

Title Board: THERESA CONLEY; KURT
MORRISON; and CHRISTY CHASE

▲ COURT USE ONLY ▲

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Case No.: 2026SA148

**OPENING BRIEF OF RESPONDENTS SIDRA AGHABABIAN AND
JESSICA ARHONTOULIS IN SUPPORT OF
PROPOSED INITIATIVE 2025-2026 #312**

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that:

The brief complies with the applicable word limits set forth in C.A.R. 28(g) because it contains 2,947 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A), because it contains under a separate heading before the discussion of the issue, as applicable, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

By: /s/ Martha M. Tierney

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Respondents Sidra Aghababian and Jessica Arhontoulis, designated representatives of the proponents of Proposed Initiative 2025-2026 #312 (the “Proposed Initiative”), through undersigned counsel, respectfully submit their Opening Brief as follows:

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

The issues presented for review appear to be the following:

Whether the Proposed Initiative violates the single subject requirement by surreptitiously altering the long-standing, separate constitutional authority of (a) the state government and (b) municipalities that own utilities to regulate and approve utility rates under the guise of a billing restriction on utility companies?

See Petition p. 3.

Whether the Title Board erred in setting titles that are misleading and incomplete in that the titles fail to disclose to voters that the Proposed Initiative will apply at different times to different utility customers based upon the occurrence of vague and undefined triggering events? *See Petition*, p.34.

STATEMENT OF THE CASE AND FACTS

Respondents Sidra Aghababian and Jessica Arhontoulis are the designated representatives of the proponents of the Proposed Initiative (“Proponents”).

Proponents submitted their Proposed Initiative to the Title Board for the setting of

a title and submission clause pursuant to § 1-40-106, C.R.S., on April 2, 2026. *See Record*, p. 12.

The Title Board held a hearing on April 15, 2026, where it determined that the Proposed Initiative contained a single subject pursuant to Colo. Const. art. V, §1(5.5) and § 1-40-106.5, C.R.S., and set a title. *Record*, p. 10. Petitioner Edward Andrew Leighty and Objectors Lynn Granger and Carly West each filed a Motion for Rehearing contending that the Proposed Initiative contains multiple subjects in violation of the single-subject requirement, and that the title as set by the Title Board was misleading. (*Leighty Motion, Record*, pp. 6-9; *Granger/West Motion, Record*, pp. 2-5). The Title Board held a rehearing on April 23, 2026, and denied the Motions for Rehearing in their entirety. *Record*, p. 11. The title set by the Title Board is as follows:

Shall there be 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 to serve new customers or later removing or retiring the extended pipeline?

Record, p. 11. Petitioner Leighty timely filed a Petition for Review of the actions of the Title Board with this Court.

SUMMARY OF THE ARGUMENT

The Title Board properly exercised its broad discretion in setting title on the Proposed Initiative. The Proposed Initiative contains a single subject: prohibiting

utilities from passing along to existing customers the costs of extending or later decommissioning a natural gas pipeline to serve new customers.

Petitioner raises one single subject objection: that the Proposed Initiative alters the separate constitutional authority of the state government and municipalities that own utilities to regulate and approve utility rates. This argument fails because the Proposed Initiative only does one thing – it prohibits all utilities from passing along to existing customers the costs of extending or later decommissioning a natural gas pipeline to serve new customers. In that regard, the bodies that have the authority to set and regulate utility rates are not changed; nor are the methods by which they set and regulate rates. The Proposed Initiative does not couple provisions proposing a change in governmental powers with another purpose. Concerns about the effects that Initiative #312 could have on other laws are not appropriate for review at this stage.

Petitioner's clear title objection fares no better. Petitioner objects to the title on the basis that it does not inform voters that the prohibition on passing along costs to existing customers may be triggered at different times in different communities based upon when a utility decides to extend a pipeline to serve new customers or decommission such a pipeline. This concern is the type of detail that

is not necessary to put into a title and does not override the discretion of the Title Board to draft a brief title that captures the major features of the measure.

The Title Board is only obligated to fairly summarize the central points of a proposed measure and need not refer to every nuance and feature of the proposed measure. While a title must be fair, clear, accurate and complete, it is not required to set out every detail of an initiative.

Accordingly, there is no basis to set aside the Title, and the decision of the Title Board should be affirmed.

ARGUMENT

I. The Initiative Complies with the Single Subject Requirement.

A. Standard of Review and Preservation.

Article V, section 1(5.5) of the Colorado Constitution, and section 1-40-106.5(1)(a), C.R.S. state that a proposed initiative must be limited to “a single subject which shall be clearly expressed in its title.” “A proposed initiative violates this rule if its text relates to more than one subject, and has at least two distinct and separate purposes not dependent upon or connected with each other.” *In re Title, Ballot Title, & Submission Clause for 2011-2012 #3*, 2012 CO 25, ¶ 9. When reviewing a challenge to the Title Board’s decision, this Court “employ[s] all legitimate presumptions in favor of the propriety of the Title Board’s action.”

In re Title, Ballot Title, & Submission Clause for 2013-2014 #89, 2014 CO 66, ¶ 8.

The Court will “only overturn the Title Board’s finding that an initiative contains a single subject in a clear case.” *Id.*

The Court does “not address the merits of the proposed initiative” or “suggest how it might be applied if enacted.” *In re Title, Ballot Title, & Submission Clause for 2019-2020 #3*, 2019 CO 57, ¶ 8. Nor can the Court “determine the initiative’s efficacy, construction, or future application, as these are matters properly considered if and after the voters approve the initiative.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #63*, 2016 CO 34, ¶ 7. Instead, the Court “must examine the initiative’s wording to determine whether it comports with the constitutional single-subject requirement.” *In re 2019-2020 #3*, 2019 CO 57, ¶ 8. To satisfy the single-subject requirement, the “subject matter of an initiative must be necessarily and properly connected rather than disconnected or incongruous.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8. “Implementing provisions that are directly tied to the initiative's central focus are not separate subjects”. *In re 2015-2016 # 63*, 2016 CO 34, ¶ 10.

“[T]he single subject requirement should be construed liberally to avoid unduly restricting the initiative process.” *In re Title, Ballot Title, & Submission Clause for 2007-2008 # 61*, 184 P.3d 747, 750 (Colo. 2008).

Proponents do not contest the Petitioner’s preservation of the arguments enumerated above, though they defer to the Petitioner to specify the precise location(s) in the record where each issue he wishes to address here was raised and addressed before the Title Board.

B. Initiative #312 Has a Single Subject.

Petitioner argues that Initiative #312 violates the single subject requirement because it alters the “separate constitutional authority of (a) the state government and (b) municipalities that own utilities to regulate and approve utility rates[.]” *See Petition*, p. 3. Yet, the Proposed Initiative does not change the balance of authority as between the Public Utilities Commission (“PUC”), which regulates investor-owned utilities, and municipalities, which regulate municipally-owned utilities – each of these governmental authorities retains its existing authority to set rates and oversee the utilities’ provision of services to their customers. The PUC will still regulate investor-owned utilities fulfilling a consumer protection role, and municipal bodies overseeing municipally-owned utilities will still be subject to the whims of the electorate to hold their leaders accountable.

The Proposed Initiative treats all utilities the same, and bars all utilities from passing along costs to extend pipelines and later to decommission those pipelines to their ratepayers. This is the single subject of the measure.

1. The Single Subject of the Proposed Initiative Is to Prohibit Utilities from Raising Utility Bill Rates for Existing Customers to Pay for Extending or Decommissioning a Natural Gas Pipeline to Serve New Customers.

Proponents seek to prohibit all utilities from passing along to existing customers the costs of extending or later decommissioning a natural gas pipeline to serve new customers. To the extent that the Proposed Initiative alters the authority of utilities to pass along certain costs to their ratepayers, that is precisely the single subject of the measure.

Laws to direct or restrain utilities' conduct are common and have been enacted by citizens through the initiative process, and by the General Assembly through the legislative process. Moreover, it is common for such laws to simultaneously impact both investor-owned utilities and utilities that are not regulated by the PUC. For example, in 2004, Colorado voters passed the citizen-initiated Amendment 37, which required large providers of retail electric service (a category that includes both investor-owned and municipal utilities) to derive a certain percentage of their retail electricity sales from renewable sources, and limited the retail rate impact of renewable energy resources that the utility could pass on to ratepayers to fifty cents per month for residential customers.

<https://historicalelectiondata.coloradosos.gov/contest/6355> (last accessed on May

7, 2026). Similarly, in 2021, the General Assembly adopted SB21-72, which required, in part, that utilities that meet a certain size threshold and other requirements must join an organized wholesale market that manages the dispatch and transmission of electricity. [SB21-072 PUC Modernize Electric Transmission Infrastructure | Colorado General Assembly](#), <https://leg.colorado.gov/bills/SB21-072> (last accessed on May 7, 2026). The General Assembly also adopted SB23-291 in 2023 which prohibits investor-owned utilities from recovering various costs from ratepayers, including tax penalties, public relation and advertising expenses, lobbying and political contribution expenses, expenses related to board meetings, and others. [SB23-291 Utility Regulation | Colorado General Assembly](#) <https://leg.colorado.gov/bills/SB23-291> (last accessed on May 7, 2026). These are but a few of the laws that arguably change the authority of a utility but do not violate the single subject requirement, and do not change the fundamental structure of regulation of those utilities by the PUC or the municipal body, as applicable.

2. The Proposed Initiative Does Not Contain a Surreptitious Alteration in Government Authority.

Petitioner accuses the Proposed Initiative of “mixing [] a substantive legal change with a surreptitious alteration in government authority.” *Record*, p. 8. In support of their argument, Petitioners cite to *In re Title, Ballot Title and Submission Clause for 2009-2010 #91*, 235 P.3d 1071 (Colo. 2010). In that case,

this Court found that an initiative violated the single subject requirement because it created and administered a beverage container tax, and it prohibited the General Assembly from exercising its legislative authority over basin roundtables and the interbasin compact committee until the year 2015, while embedding these entities within the water sections of the Colorado Constitution and vesting them with significant new authority. *Id.* at 1074.

This Court further clarified that

[t]he mere fact that a proposed constitutional amendment may affect the powers exercised by government under preexisting constitutional provisions does not by itself demonstrate that the proposal embraces more than one subject. However, when provisions seeking to accomplish one purpose are coupled with provisions proposing a change in governmental powers that bear no necessary or proper connection to the central purpose of the initiative, the initiative violates the single-subject rule.

Id. at 1077. (internal citations omitted). Here, the Proposed Initiative only does one thing – it prohibits all utilities from passing along to existing customers the costs of extending or later decommissioning a natural gas pipeline to serve new customers. In contrast to the initiative in *2009-2010 #91*, the Proposed Initiative does not couple provisions proposing a change in governmental powers with another purpose.

Petitioner also relies upon *In re Title, Ballot Title & Submission Clause for 1997-1998 #64*, 960 P.2d 1192 (Colo. 1998). That case is also distinguishable.

Initiative #64 proposed substantial changes to the judicial branch of state government by instituting new requirements regarding the nomination, appointment, and retention of state court judges and justices, imposing new limits on the duration of a judicial term of office and the number of terms a judicial officer could serve, granting absolute immunity for those who criticize a judicial officer, modifying the qualifications, manner of selection of members, and the powers of the Judicial Selection Commission, repealing the existing constitutional requirement that each judicial district have at least one district judge, and repealing the constitutional provision that gives Denver control over county court judges in the City and County of Denver. This Court found that the initiative contained multiple subjects, holding, in part, that the reallocation of authority and control over Denver county court judgeships did not “share a unifying or common objective with those provisions changing the qualifications of judicial officers[.]” *Id.* at 1198. Again, in contrast to *In re 1997-1998 #64*, the Proposed Initiative does not combine provisions proposing a change in governmental powers with another purpose.

What Petitioner really appears to be concerned with is the policy choice itself and its effects on other laws. This Court has “never held that just because a proposal may have different effects it necessarily violates the single-subject

requirement. Indeed, the effects this measure could have on Colorado law if adopted by voters are irrelevant to [the Court’s] review of whether the proposed initiative and its Titles contain a single subject.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 17 (internal citations omitted). This Court has been consistent in holding that when considering whether an initiative comports with the single subject requirement, the Court does “not address the merits of the proposed initiative or predict how it may be applied if adopted by the electorate. Whether a proposed initiative is a “bad idea” is not the test of whether it meets the single subject requirement.” *In re 2013-2014 #90*, 2014 CO 63, ¶ 21 (internal citations omitted).

II. The Title Set by the Title Board Is Not Misleading.

A. Standard of review and preservation.

“The Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.” *In re 2013-2014 #90*, 2014 CO 63, ¶ 24. The Title Board is “afforded discretion in resolving interrelated problems of length, complexity, and clarity in designating a title and ballot title and submission clause.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #73*, 2016 CO 24, ¶ 23. The Title Board is required to summarize the central features of a proposed initiative fairly, but it “need not explain the meaning or potential effects of the proposed initiative

on the current statutory scheme.” *Id.* Nor must a title recite every detail of the proposed measure. *In re Title, Ballot Title, & Submission Clause for 2001-2002 #21 & #22*, 44 P.3d 213, 222 (Colo. 2002). The Court will reverse the title set by the Board “only if a title is insufficient, unfair, or misleading.” *Id.* ¶ 8. The Court does not “consider whether the Title Board set the best possible title.” *In re 2019-2020 #3*, 2019 CO 107, ¶ 17.

Respondents agree that Petitioner preserved his challenge to the title set by the Board.

B. The Title Properly Informs Voters of the Key Features of the Proposed Initiative.

Petitioner claims that the Proposed Initiative’s title is misleading and incomplete because it “fail[s] to disclose to voters that the Proposed Initiative will apply at different times to different utility customers based upon the occurrence of vague and undefined triggering events?” *Petition*, p. 3. The Title Board considered Petitioner’s concerns in this regard but rejected the request to make changes to the title on these grounds. *Record*, p. 11.

At the suggestion of the Legislative Council Staff and the Office of Legislative Legal Services, Proponents added an Applicability Clause to the language of the Proposed Initiative that states: “This measure applies to conduct occurring or contracts entered into on or after the effective date of this measure.”

See Review and Comment Memo for 2025-2026 #312, dated March 27, 2026, on p. 3, ¶ 11, https://leg.colorado.gov/initiative_files/3530/download. Additionally, Article V, section 1(4)(a) of the Colorado Constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor. These two provisions make clear that the Proposed Initiative is only prospective in nature, goes into effect upon proclamation of the governor, and applies to pipeline extension costs to serve new customers, and later decommissioning costs. That the provision will result in different timing depending upon when a utility extends a pipeline to serve new customers or later decommissions that pipeline, is an implementation feature that is not required to be in the title.

The Title Board exercised its discretion to craft a title that seeks to avoid “public confusion,” is “brief” and “unambiguously states the principle of the provision sought to be added, amended, or repealed.” §1-40-106(3)(b), C.R.S. This Court should defer to the Title Board’s discretion. *In re Title, Ballot Title, & Submission Clause for 1999-2000 #256*, 12 P.3d 246, 255 (Colo. 2000) (“In reviewing the actions of the Board, we grant great deference to the board’s broad discretion in the exercise of its drafting authority.”) “While titles must be fair, clear, accurate and complete, the Title Board is not required to set out every detail

of an initiative.” *In re Title, Ballot Title, & Submission Clause for 2007-2008 #62*, 184 P.3d 52, 60 (Colo. 2008). The title for Initiative #312 satisfies this test because the claimed deficiency in this title is a detail rather than a central feature of this initiative.

CONCLUSION

The Proponents respectfully request the Court to uphold the actions of the Title Board regarding Proposed Initiative 2025-2026 #312.

Respectfully submitted this 7th day of May, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPENING BRIEF OF RESPONDENTS SIDRA AGHABABIAN AND JESSICA ARHONTOULIS IN SUPPORT OF PROPOSED INITIATIVE 2025-2026 #312** was electronically served via e-mail or via the Colorado Courts E-Filing System on the 7th day of May, 2026 to the following:

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