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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, I certify that:

The brief complies with the word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

It contains 2,553 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).

The brief contains, under a separate heading before the discussion of the issue, 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 or 28.1, and C.A.R. 32.

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Rehearing before the Title Board on Proposed Initiative 2025-2026
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Respondents Christy Chase, Theresa Conley, and Kurt Morrison, in their official capacities as members of the Ballot Title Board (collectively, the “Board”), by and through undersigned counsel, hereby submit their Opening Brief in this appeal:

ISSUES ON REVIEW

I. Whether the Title Board appropriately set title because Proposed Initiative 2025-2026 #312 contains only a single subject.

II. Whether the title set by the Title Board is clear, accurate, and not misleading.

STATEMENT OF THE CASE

Sidra Aghababian and Jessica Arhontoulis are the proponents of Proposed Initiative 2025-2026 #312 (“Proposed Initiative” or “#312”), which concerns “Cost of Natural Gas Pipeline Extensions.” *See* Pet. For Rev., at 1. Specifically, #312 proposes to amend the Colorado Constitution to add Section 17 to Article XVIII. *See* #312 Record at 11. If #312 is adopted by the voters, the amendment would prohibit utilities from raising bill rates of existing customers to pay for the costs of

natural gas pipeline extensions and associated decommissionings to provide service for new customers. *See id.*, at 10. The Proposed Initiative also includes an applicability clause which states that #312 only applies to contracts entered into on or after the effective date of measure. *See id.*, at 11.

The Board held a public hearing to consider #312 on April 15, 2026, at which the Board concluded that the measure contained a single subject and proceeded to set a title. *See Pet. For Rev.*, at 1. Petitioner Edward Andrew Leighty filed a timely Motion for Rehearing.¹ *Id.* The Board considered the motion on April 23, 2026, and subsequently denied the Motion for Rehearing. *Id.* at 2. The final version of the ballot title reads as follows:

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.

¹ One other Motion for Rehearing was timely filed with the Board by a different set of objectors, however, they did not subsequently file a petition for review. *See Record* at 1-4.

Id. at 10.

Petitioner now challenges whether #312 contains a single subject and whether its title is misleading and incomplete.

SUMMARY OF ARGUMENT

The Proposed Initiative contains a single subject that prohibits utilities from raising utility bill rates of existing customers to pay any costs of a natural gas pipeline extension and eventual decommissioning undertaken to serve new customers. This single general purpose is clear from the measure's text, and the petitioner's arguments – centered on the potential effects the initiative might have on existing regulatory authority – improperly invite the Court to speculate about #312's future application rather than examine the measure itself.

Further, #312's title is clear, accurate, and not misleading. It accurately summarizes the central feature of the initiative's single subject. Petitioner's concerns regarding the applicability clause and imagined immediate rate reductions misunderstand the measure: the

title properly identifies that the initiative applies only to future contracts and only restricts future rate increases to fund pipeline extensions for new customers.

Because Proposed Initiative #312 contains a single subject and the Title Board set a clear, fair, and complete title within its discretion, the Court should affirm the Board's determinations.

ARGUMENT

I. The proposed initiative contains a single subject.

A. Standard of Review and preservation.

The Title Board has jurisdiction to set a title only when a measure contains a single subject. *See* Colo. Const. art. V, § 1(5.5). The Court will “overturn the Board’s finding that an initiative contains a single subject only in a clear case.” *In re Title, Ballot Title, & Submission Clause for 2021-2022 #16*, 2021 CO 55, ¶ 9 (quotations omitted). “In reviewing a challenge to the Title Board’s single subject determination, [the Supreme Court] employ[s] all legitimate presumptions in favor of the Title Board’s actions.” *In re Title, Ballot Title, & Submission Clause for*

2013-2014 #76, 2014 CO 52, ¶ 8. In doing so, 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.” *In re 2013-2014 #76*, 2014 CO 52, ¶ 8. 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 2013-2014 #76*, 2014 CO 52, ¶ 8.

The Title Board agrees this issue is preserved. *See Record at 5-6.*

B. The Proposed Initiative contains one provision which carries out one general purpose.

An initiative satisfies the single subject requirement when it tends to effect or carry out one general objective or purpose. *In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 #25*, 974

P.2d 458, 463 (Colo. 1999). In contrast, an initiative violates the single subject requirement when it has “at least two distinct and separate purposes which are not dependent upon or connected with each other.” *In re Title, Ballot Title, & Submission Clause for Proposed Initiative 2001-2002 #43*, 46 P.3d 438, 441 (Colo. 2002) (quotations omitted). This ensures that each proposal within an initiative “depends on its own merits for passage.” *See In re Matter of Title, Ballot Title & Submission Clause, & Summary for 1997-1998 # 64*, 960 P.2d 1192, 1196 (Colo. 1998) (quotations omitted).

The Board correctly determined the #312 contains only one subject: preventing utility companies from passing on charges to construct pipeline expansions to existing customers. In the Motion for Rehearing, Petitioner argues that the Proposed Initiative violates the single subject requirement because it “changes the constitutional distribution of authority for regulating utility rates.” *See Record at 5*. However, the “effects th[e] measure could have on Colorado...law if adopted by voters are irrelevant” to the single subject inquiry. *In re*

Title, Ballot Title & Submission Clause for 2013-2014 #90, 2014 CO 63, ¶ 19 (quotations omitted). It is well established that the Board does not have jurisdiction to engage in this type of analysis. *See In re Matter of Title, Ballot Title & Submission Clause for 2015-2016 #73*, 369 P.3d 565, 569 (Colo. 2016) (“The Board, however, need not explain the meaning or potential effects of the proposed initiative on the current statutory scheme.”).

Petitioner’s citations to prior decisions of this Court are unpersuasive because each involved a proposed initiative that combined multiple provisions addressing unrelated governmental or procedural changes. *See* Record at 7. These cases are easily distinguishable, as #312 contains only a single provision, and any incidental effect on regulatory authority is not relevant to the Board’s assessment.

First, Petitioner cites to *In re Title, Ballot Title, Submission Clause for 2009-2010 No. 91*, 235 P.3d 1071, 1076 (Colo. 2010). This initiative proposed: (1) creating and administering a beverage container tax, *and* (2) prohibiting the General Assembly from exercising its

legislative authority over the basin roundtables and interbasin compact committee for several years. *Id.* at 1073. This Court did not address whether a “mixing of a substantive legal change with a surreptitious alteration in government authority”, *see* Record at 7, was a violation of the single subject requirement, it simply ruled that since the topics were unrelated, 2009-2010 No. 91 violated the single subject requirement. *See id.* at 1077 (“The 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.”) (emphasis added).

In contrast, the Proposed Initiative here has one single purpose – to prevent utility companies from passing on charges to existing

customers. Even if this single purpose “may affect the powers exercised by government under preexisting constitutional provisions,” that fact alone would not demonstrate that the initiative embraces more than one subject. *Id.* Further, Petitioner’s argument requires this Court to engage in an extra-jurisdictional analysis of the merits and legal effect of the initiative. *See In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 No. 25*, 974 P.2d 458 (Colo. 1999) (“In reviewing actions taken by the Ballot Title Setting Board, the Supreme Court may not address the merits of a proposed initiative, nor may the Supreme Court interpret its language or predict its application.”); *In re Title, Ballot Title & Submission Clause for 1999-2000 #235(a)*, 3 P.3d 1219, 1225 (Colo. 2000) (the Court “cannot answer this question without extending [its] inquiry into the legal effect of the Initiative.”).

Similarly, in the other decision cited by Petitioner, *In re Title, Ballot Title and Submission Clause, and Summary for 1997-1998 # 64*, the Court held the title violated the single subject requirement because the initiative itself contained multiple provisions unrelated to the

stated purpose of addressing the qualifications of judicial officers. 960 P.2d 1192, 1198 (Colo. 1998). Specifically, the initiative contained additional provisions ranging from: immunizing from liability persons who criticize a judicial officer; repealing Constitutional amendments that give the City and County of Denver control over Denver County court judges; and a provision that divested the Commission on Judicial Discipline of its investigatory and remedial powers. *Id.* at 1195. 1997-1998 # 64 did not, as Petitioner misguidedly suggests, violate the single subject requirement solely because it affected governmental authority and control. *See id.* at 1197 (“If the Initiative confined itself solely to the purpose advanced by the Title Board, namely, the requirements and procedures for the commencement and termination of appointments to judgeships, it might encompass only one subject.”). Here, as previously discussed, #312 does not contain multiple provisions and instead contains a single provision and therefore only contains a single subject.

Because Petitioner’s argument focuses on the potential effects and consequences of the measure, not the text of the measure itself, it does

not show a violation of the single subject rule. *See Matter of Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 57, ¶ 19. (“[T]o conclude that the initiative here comprises multiple subjects would require us to read language into the initiative that is not there and to address the merits of that initiative and suggest how it might be applied if enacted...[W]e are not permitted to do so.”). Therefore, this Court should affirm the Board’s finding that #312 contains a single subject.

II. The title set by the Board satisfies the clear title standard.

A. Standard of Review and preservation.

When considering a challenge to a title, the Court does not “consider whether the Title Board set the best possible title.” *In re Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 107, ¶ 17. Instead, “[t]he Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 24. The Board “is given discretion in resolving interrelated problems of length,

complexity, and clarity in setting a title[.]” *Id.* The Court will reverse the title set by the Board “only if a title is insufficient, unfair, or misleading.” *Id.* ¶ 8.

The Title Board agrees this issue is preserved. *See* Record at 7-8.

B. The title is not misleading, unfair, or inaccurate.

A title is clear if “the title read as a whole fairly and accurately” describes the initiative. *See In re Title, Ballot Title & Submission Clause for 2009-2010 #45*, 234 P.3d 642, 649 n.3 (Colo. 2010); *see also In re Title, Ballot Title & Submission Clause for Proposed Initiatives 2001–2002 # 21 & # 22*, 44 P.3d 213, 222 (Colo. 2002) (“The titles, standing alone, should be capable of being read and understood, and capable of informing the voter of the major import of the proposal, but need *not* include every detail. They must allow the voter to understand the effect of a yes or no vote on the measure. When they do not, both the title board and this Court fail in our respective functions.”) (emphasis in original). In this case, the Proposed Initiative’s title is clear because it informs voters precisely what the measure will do.

Petitioner first argues that the applicability clause misleads voters. On the contrary, the applicability clause was added to make clear that the measure did not unconstitutionally impair existing contracts. *See Rehearing before the Title Board on Proposed Initiative 2025-2026 #312* (April 23, 2026), <https://tinyurl.com/5p7774m5> (statement at 1:37:10); *see also* Office of Legislative Legal Services, Review and Comment Memorandum (March 27, 2026), ¶ 11, <https://tinyurl.com/3nx4p4ad> (recommending “clarifying that the proposed initiative applies to contracts entered into on or after the applicable effective date of the propose initiative”). But neither the Board nor this Court may “speculate as to the measure’s efficacy, or its practical or legal effects.” *In re Title, Ballot Title & Submission Clause for 2007-2008 #62*, 184 P.3d 52, 60 (Colo. 2008).

Next, Petitioner argues that the title misleads voters into thinking they will have an immediate rate reduction if they vote for the measure. *See Record* at 8. However, the title makes clear that the provision will only: (1) prevent rate increases associated with the expansion of a

natural gas pipeline to new customers and (2) apply to existing customers of the utility. Further, the added applicability clause makes clear that #312 only affects contracts entered into on or after the effective date of the measure. Far from misleading, this clause prevents voters from incorrectly assuming that existing contracts or past rate hikes would be affected.

As written, the title allows voters to understand the “major import of the proposal.” See *In re 2001–2002 # 21 & # 22*, 44 P.3d at 222; see also *In re Matter of Title, Ballot Title & Submission Clause, & Summary for a Petition on Campaign & Pol. Fin.*, 877 P.2d 311, 315 (Colo. 1994) (“The Board is only obligated to fairly summarize the central points of a proposed measure, and need not refer to every effect that the measure may have on the current statutory scheme.”). This is sufficient to “prevent voter confusion and ensure that the title adequately expresses the initiative’s intended purpose [such that] voters ... should be able to ‘determine intelligently whether to support or oppose the proposal.’” *In re Matter of Title, Ballot Title & Submission*

Clause for 2015–2016 #156, 2016 CO 56, ¶ 11. The Board’s title concisely summarizes #312’s central features – prohibiting utilities from raising bill rates of existing customers to pay for the costs of natural gas pipeline extensions and associated decommissionings to provide service for new customers – and as such falls squarely within the Board’s broad discretion to set a clear and brief title. As such, this Court should affirm the Board’s title.

CONCLUSION

For the above reasons and based on the above authorities, the Board requests that the Court affirm its determination that #312 contains a single subject and affirm that the Board set a clear title.

Respectfully submitted on this 7th day of May, 2026.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **THE TITLE BOARD'S OPENING BRIEF** upon all counsel of record by Colorado Courts E-filing (CCE), this 7th day of May, 2026.

s/Dave Sluss