

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0133E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION'S RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, TO IMPLEMENT HOUSE BILL 23-1137 REGARDING COMMUNITY SOLAR GARDEN BILLING CREDITS.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: March 22, 2024

Adopted Date: March 20, 2024

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission issues this Notice of Proposed Rulemaking (NOPR) to amend the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules).

2. This rulemaking is intended to implement House Bill (HB)23-1137, signed into law on April 17, 2023, and codified as § 40-2-127, C.R.S. The legislation directs the Commission to adopt by June 30, 2024, rules that implement certain forms of billing credits paid to subscribers of a Community Solar Garden (CSG).¹ The NOPR issued in this Proceeding formally initiates the rulemaking process.

3. The statutory authority for the proposed rules can be found at § 40-2-127, C.R.S., (requiring the Commission to promulgate certain implementing rules) and § 40-2-108, C.R.S.,

¹ § 40-2-127(5)(b)(II)(E), C.R.S.

(requiring the Commission generally to promulgate rules necessary to administer and enforce Title 40).

4. The Commission will hold a remote public comment hearing on the proposed rules at 1:00 p.m. on May 8, 2024.

5. The proposed changes to the Electric Rules are set forth in legislative (*i.e.*, ~~strikeout and underline~~) format (Attachment A) and final format (Attachment B). Given the subject matter of HB23-1137, this rulemaking is narrowly focused on amendments to Rule 3881 related to CSG billing credits. No other Electric Rules have been proposed to be amended.

B. Background

6. Current law requires an electric retail utility (utility) to offer a billing credit as the means of purchasing output from a CSG located within the utility's service territory and establishes the means of calculating the billing credit. HB23-1137 allows for billing credit amounts to take one of two forms: a bill credit amount that changes annually or a bill credit amount that remains fixed starting at the time the subscriber organization applies for or bids capacity into a utility CSG program. HB23-1137 also requires the Commission to allow a utility to recover costs incurred in implementing and maintaining the net metering credit billing systems.

7. HB23-1137 amends § 40-2-127(5)(b)(II), C.R.S., as follows.

8. Section 40-2-127(5)(b)(II)(B), C.R.S., requires that, for a subscriber organization that directs the qualifying retail utility to provide the subscriber organization's subscribers with a bill credit that changes annually, the credit is calculated by multiplying the subscriber's share of the electricity production from the CSG by the utility's total aggregate retail rate as charged to the subscriber, minus a reasonable charge as determined by the Commission. The charge will be

used to cover the utility's costs of delivering to the subscriber's premises the electricity generated by the CSG, integrating the solar generation with the utility's system, and administering the community solar garden's contracts and net metering credits.

9. Section 40-2-127(5)(b)(II)(C), C.R.S., requires that, for a subscriber organization that directs the qualifying retail utility to provide the subscriber organization's subscribers with a fixed bill credit, the credit is calculated by multiplying the subscriber's share of the electricity production from the CSG by the utility's total aggregate retail rate as charged to the subscriber at the time the subscriber organization applies for or bids capacity into the utility's CSG program, minus a reasonable charge, as determined by the Commission at the time the subscriber organization applies for or bids capacity into a utility CSG program. The charge will be used to cover the utility's costs related to: delivering to the subscriber's premises the electricity generated by the CSG; integrating the solar generation with the utility's system; and administering contracts and net metering credits for the CSG.

10. Section 40-2-127(5)(b)(II)(D), C.R.S., further requires that, for the purpose of applying the fixed bill credit to a subscriber's bill, the bill credit shall not be applied toward the following rate rider charges, unless the rate rider charges are included in the reasonable charge: rate rider charges that promote clean energy technologies, including beneficial electrification; rate rider charges that provide low-income bill assistance; or rate rider charges that provide other public benefits as determined by the Commission.

11. Section 40-2-127(5)(b)(II)(E), C.R.S., as previously noted, requires the Commission to adopt rules to implement the provisions in HB23-1137 by June 30, 2024.

12. Section 40-2-127(5)(b)(II)(F), C.R.S., requires that the Commission allow a utility to recover the costs incurred in implementing and maintaining billing systems for the various bill credit processes required pursuant to § 40-2-127(5)(b)(II), C.R.S.

13. Finally, § 40-2-127(5)(b)(II)(G), C.R.S., requires the Commission to ensure that the reasonable charge that the Commission determines pursuant to § 40-2-127(5)(b)(II)(B)-(C), C.R.S., does not reflect costs that are already recovered by the utility from the subscriber through other charges.

C. Discussion

14. The proposed amendments to the Electric Rules stem from the statutory authority under § 40-2-127(5)(b)(II), C.R.S. Given the subject matter of the statute, the proposed amendments to the Electric Rules are narrow in scope. Only Rule 3881 has been revised, as explained below, to include new statutory provisions related to billing credits for CSGs.

15. Where rules are described as “current,” they refer to the currently effective rules prior to proposed amendments. “Proposed” rules refer to proposed changes, including new or reordered paragraphs or revisions to language.

16. Current Rule 3881(a)(I) states that a CSG billing credit “shall be calculated by multiplying the CSG subscriber’s share as a percentage of the electricity generated by the CSG times the utility’s total aggregate retail rate of the subscriber’s rate class, including all billed components except for the customer charge, demand side management (DSM), and RESA rate components, as charged to the CSG subscriber’s class.”

17. Proposed Rule 3881(b) requires that billing credit amounts shall be set forth in the utility’s tariffs and shall take one of two forms: a bill credit amount that changes annually or a bill credit amount that remains fixed starting at the time the subscriber organization applies for or

bids capacity into a utility CSG program. It also requires the utility to file its tariffs no later than November 15 each year, for effect the following January 1, to update the level of annual or fixed billing credit amounts to be paid when multiplied by the CSG subscriber's share as a percentage of the electricity generated by the CSG.

18. Current Rule 3881(a)(I) has been amended to Proposed Rule 3881(b)(I), which clarifies that the calculation is for bill credits that change annually, consistent with § 40-2-127(5)(b)(II)(B), C.R.S. HB23-1137 maintains this calculation if the CSG indicates to the utility that the CSG's subscribers' bill credits change annually.

19. Current Rule 3881(a)(II) relates to the calculation of the billing credit for a commercial or industrial customer on a demand tariff. This numbering of this rule has been amended to become Proposed Rule 3881(b)(I)(A). No other substantive edits have been made to this rule.

20. Proposed Rule 3881(b)(II) relates to the calculation of the billing credit for a subscriber organization that directs the utility to provide the subscriber organization's subscribers with a fixed bill credit, rather than an annual bill credit, consistent with § 40-2-127(5)(b)(II)(C)-(D), C.R.S.

D. Conclusion

21. Through this NOPR, the Commission solicits comments from interested persons on the amendments proposed in this Decision and its attachments. Interested persons may file written comments including data, views, and arguments into this Proceeding for consideration. The Commission also welcomes submission of alternative proposed rules, including both consensus proposals joined by multiple rulemaking participants and individual proposals. Participants are encouraged to provide redlines of any specific proposed rule changes.

22. The statutory authority for the rules proposed here is § 40-2-127(5)(b)(II), C.R.S.

23. The proposed rules in legislative (*i.e.*, ~~strikeout~~/underline) format (Attachment A) and final format (Attachment B) are available through the Commission's Electronic Filings (E-Filings) System at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0133E

24. The Commission encourages and invites public comment on all proposed rule amendments. We request that commenters propose any changes in legislative redline format.

25. The Commission will conduct a public comment hearing on the proposed rules and related issues on May 8, 2024, by video conference using Zoom. Those interested in offering oral comments at the public comment hearing may access the hearing through the video conference using Zoom at a link in the calendar of events on the Commission's website, available at: puc.colorado.gov/puccalendar.

26. The hearing will begin at 1:00 p.m. on May 8, 2024, and will conclude no later than 5:00 p.m.

27. Consistent with Commission practice, the public comment hearing will be webcast on the Commission's website. Persons wishing to observe, but not participate in the public comment hearing may do so by observing the webcast on the PUC YouTube Channel at: puc.colorado.gov/webcasts. The Commission encourages interested persons who do not wish to provide comments during the hearing to observe the hearing through the webcast because this will help minimize background noise during the hearing and may assist in the orderly progression of the hearing.

28. The Commission encourage interested persons to submit written comments before the May 8, 2024 hearing date. In the event interested persons wish to file initial comments before the hearing, the Commission requests that comments be filed no later than May 1, 2024.

The Commission prefers for comments to be filed using the Commission's E-Filings System under this Proceeding at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

II. **ORDER**

A. **The Commission Orders That:**

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) shall be filed with the Colorado Secretary of State for publication in the April 10, 2024 edition of *The Colorado Register*.

2. A remote public comment hearing on the proposed rules and related matters shall be held as follows:

DATE: May 8, 2024

TIME: 1:00 p.m., continuing until concluded, but no later than 5:00 p.m.

PLACE: By video conference using Zoom at a link in the calendar of events on the Commission's website, available at:
<https://puc.colorado.gov/puccalendar>

3. The public comment hearing scheduled to be held on May 8, 2024, shall be conducted in accordance with the procedures set forth in this Decision. All those who wish to participate in the May 8, 2024 public comment hearing shall do so by accessing the link available on the Commission's calendar of events on its website for the date and time(s) of the hearing at: puc.colorado.gov/puccalendar.

4. Those wishing to observe but not participate in the above May 8, 2024 public comment hearing may do so by observing the Commission's webcast of the workshop on the PUC YouTube Channel at: puc.colorado.gov/webcasts.

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than May 1, 2024, and any pre-filed

comments responsive to the initial comments be submitted before the hearing. The Commission will consider all submissions, whether oral or written.

6. The Commission prefers and encourages interested persons to pre-file comments in this Proceeding (24R-0133E) through its E-Filings System at:

<https://www.dora.state.co.us/pls/efi/EFI.homepage>.

7. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 20, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners