

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3

RULES REGULATING ELECTRIC UTILITIES

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to describe the electric service to be provided by jurisdictional utilities and master meter operators to their customers; to designate the manner of regulation over such utilities and master meter operators; and to describe the services these utilities and master meter operators shall provide. In addition, these rules identify the specific provisions applicable to public utilities or other persons over which the Commission has limited jurisdiction. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, cost allocation between regulated and unregulated operations, recovery of costs, the acquisition of renewable energy, small power producers and cogeneration facilities, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-123, 40-2-124, 40-2-129, 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-3.2-104, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, [40-6-107](#), 40-8.7-105(5), 40-9.5-107(5), and 40-9.5-118, C.R.S.

GENERAL PROVISIONS

3000. Scope and Applicability.

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[indicates omission of unaffected rules]

- (c) The following rules in this Part 3 shall apply to **cooperative electric generation and transmission associations**:
- (I) Rules 3002 (a)(III), (a)(XVI), (b), and (c) concerning the filing of applications for certificates of public convenience and necessity for facilities or for appeals of local land use decisions.
 - (II) Rule 3006(j) concerning the filing of electric resource planning reports.
 - (III) Rule 3102 concerning applications for certificates of public convenience and necessity for facilities.

- (IV) Rule 3103 concerning amendments to certificates of public convenience and necessity for facilities.
- (V) Rule 3104 concerning application to transfer, to obtain a controlling interest, or to merger with another entity.
- (VI) Rule 3200 concerning construction, installation, maintenance, and operation of facilities.
- (VII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.
- (VIII) Rule 3205 concerning construction or expansion of generating capacity.
- (IX) Rule 3206 concerning construction or extension of transmission facilities.
- (X) Rule 3253(a) concerning major event reporting.
- (XI) Rules 3602, 3605, and 36178(a) concerning electric resource planning.
- (XII) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.

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[indicates omission of unaffected rules]

3002. Applications.

- (a) By filing an appropriate application, any utility may ask that the Commission take action regarding any of the following matters:
 - (I) For the issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 3100.
 - (II) For the issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 3101.
 - (III) For the issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 3102.
 - (IV) For the amendment of a certificate of public convenience and necessity in order to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 3103.
 - (V) To transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets within the jurisdiction of the Commission or stock, or to merge a utility with another entity, as provided in rule 3104.
 - (VI) For approval of the issuance, or assumption of any security or to create a lien pursuant to § 40-1-104, as provided in rule 3105.

- (VII) For flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 3106.
- (VIII) For approval of an air quality improvement program, as provided for in rule 3107.
- (IX) To amend a tariff on less than statutory notice, as provided in rule 3109.
- (X) For variance of voltage standards, as provided in rule 3202.
- (XI) For approval of meter and equipment testing practices, as provided in rule 3303.
- (XII) For approval of a meter sampling program, as provided in rule 3304.
- (XIII) For approval of a refund plan, as provided in rule 3410.
- (XIV) For approval of a Low-Income Energy Assistance Plan, as provided in rule 3411.
- (XV) For approval of a cost assignment and allocation manual, as provided in rule 3503.
- (XVI) For approval of or for amendment to a least-cost resource plan, as provided in rules 3603, 3613, and 3615~~9~~.
- (XVII) For approval of a compliance plan, as provided in rule 3657.
- (XVIII) For appeal of local government land use decision, as provided in rule 3703.
- (XIX) For any other matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.

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[indicates omission of unaffected rules]

3006. Reports.

- (a) On or before April 30th of each year, each utility shall file with the Commission an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility; and shall file the required number of copies pursuant to rule 1204(a)(IV) of the Commission's Rules of Practice and Procedure. If the Commission grants the utility an extension of time to file the annual report, the utility nevertheless shall file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year.
- (b) If a certified public accountant prepares an annual report for a utility, the utility shall file two copies of the report with the Commission within 30 days after publication.

- (c) A cooperative electric association shall file with the Commission a report listing its designation of service.
- (d) A cooperative electric association shall file with the Commission a report of election to be governed by § 40-8.5-102, C.R.S., pertaining to unclaimed monies. This report shall be filed within 60 days of the election.
- (e) Pursuant to rule 3204, a utility shall file with the Commission a report concerning any incident which results in death, serious injury, or significant property damage.
- (f) Pursuant to rules 3252 and 3253, a utility shall file with the Commission a report concerning any major event.
- (g) Pursuant to rule 3411(e)(IV), a utility shall file with the Commission a report concerning its fund administration of the Low-Income Energy Assistance Act.
- (h) Pursuant to rules 3503(a), 3504(a), and 3503(i), a utility shall file with the Commission cost assignment and allocation manuals, fully-distributed cost studies, and required updates.
- (i) Pursuant to rule 36178(a), a utility shall file with the Commission an annual progress report concerning the utility's electric resource plan.
- (j) Pursuant to rule 36178(b), a utility shall file with the Commission reports on competitive acquisition bidding of the utility's electric resource plan.
- (k) Pursuant to rule 3662, a utility shall file with the Commission its annual compliance report.
- (l) A utility shall file with the Commission any report required by a rule in this 3000 series of rules.
- (m) A utility shall file with the Commission such special reports as the Commission may require.

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[indicates omission of unaffected rules]

ELECTRIC RESOURCE PLANNING

3600. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (i.e., rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3601. Overview and Purpose.

The purpose of these rules is to establish a process to determine the need for additional electric resources by electric utilities subject to the Commission's jurisdiction and to develop cost-effective resource portfolios to meet such need reliably. It is the policy of the state of Colorado that a primary goal of electric utility resource planning is to minimize the net present value of revenue requirements. It is also the policy of the state of Colorado that the Commission gives the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies.

3602. Definitions.

The following definitions apply to rules 3600 through 3619~~8~~. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Availability factor" means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.
- (b) "Annual capacity factor" means the ratio of the net energy produced by a generating facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year round.
- (c) "Cost-effective resource plan" means a designated combination of new resources that the Commission determines can be acquired at a reasonable cost and rate impact.
- (d) "Demand-side resources" means energy efficiency, energy conservation, load management, and demand response or any combination of these measures.
- (e) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.
- (f) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, resulting in a reduction in end-use services.
- (g) "Energy efficiency" means the decrease in electricity requirements of specific customers during any selected period with end-use services of such customers held constant.
- (h) "Heat Rate" means the ratio of energy inputs used by a generating facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kilowatt hours.
- (i) "Modeling error or omission" means any alleged incorrect, incomplete, or improper input to or output from computer modeling performed by the utility for evaluating a proposed resource, of a magnitude that alters the model results.
- (j) "Net present value of revenue requirements" means the current worth of the total expected future revenue requirements associated with a particular resource portfolio, expressed in dollars in the year the plan is filed as discounted by the appropriate discount rate.

- (jk) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of revenue requirements for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.
- (l) "Potential resource" means an electric generation facility bid into a competitive acquisition process in accordance with an approved resource plan.
- (km) "Renewable energy resources" means all renewable energy resources as defined in the Commission's Renewable Energy Standard Rules.
- (ln) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific resources to meet projected electric system demand and energy requirements. The resource acquisition period begins from the date the utility files its plan with the Commission.
- (mo) "Resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.
- (np) "Resources" means supply-side resources and demand-side resources used to meet electric system requirements.
- (oq) "Section 123 resources" means new energy technology or demonstration projects, including new clean energy or energy-efficient technologies under § 40-2-123 (1), C.R.S., and Integrated Gasification Combined Cycle projects under § 40-2-123(2), C.R.S.
- (pr) "Supply-side resources" means resources that provide electrical energy or capacity to the utility. Supply-side resources include utility owned generating facilities and energy or capacity purchased from other utilities and non-utilities.
- (qs) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3603. Resource Plan Filing Requirements.

- (a) Jurisdictional electric utilities shall file a resource plan pursuant to these rules on or before October 31, 2011, and every four years thereafter. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing.
- (b) Jurisdictional electric utilities shall contemporaneously file a motion or motions seeking extraordinary protection of information listed as highly confidential pursuant to paragraph 3604(j), consistent with rule 1100 of the Commission's Rules of Practice and Procedure. The utility shall specifically address appropriate confidentially protections and nondisclosure requirements for modeling inputs and assumptions that reasonably relate to a potential resource that may be requested under paragraph 3613(b). Finally, the utility's motion or motions shall specify that response time shall run concurrent with the intervention deadline established in the resource plan proceeding.

3604. Contents of the Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility shall provide work-papers to support the information contained in the plan. The plan shall include the following:

- (a) A statement of the utility-specified resource acquisition period and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire resource plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of the needs of the utility system.
- (b) An annual electric demand and energy forecast developed pursuant to rule 3606.
- (c) An evaluation of existing resources developed pursuant to rule 3607.
- (d) An evaluation of transmission resources pursuant to rule 3608.
- (e) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule 3609.
- (f) An assessment of the need for additional resources developed pursuant to rule 3610.
- (g) The utility's plan for acquiring these resources pursuant to rule 3611, including a description of the projected emissions, in terms of pounds per MWh and short-tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for any resources proposed to be owned by the utility and for any new generic resources included in the utility's modeling for its resource plan.
- (h) The annual water consumption for each of the utility's existing generation resources, and the water intensity (in gallons per MWh) of the existing generating system as a whole, as well as the projected water consumption for any resources proposed to be owned by the utility and for any new generic resources included in the utility's modeling for its resource plan.
- (i) The proposed RFP(s) the utility intends to use to solicit bids for energy and capacity resources to be acquired through a competitive acquisition process, including model contracts, pursuant to rule 3616~~5~~.
- (j) A list of the information related to the resource plan proceeding that the utility claims is confidential and a list of the information related to the resource plan proceeding that the utility claims is highly confidential. The utility shall also list the information that owners or developers of a potential resource may request under paragraph 3613(b). The utility shall further explicitly list the protections it proposes for bid prices, other bid details, information concerning a new resource that the utility shall own as a rate base investment, modeling inputs and assumptions, and the results of bid evaluation and selection. ~~The proposed treatment of and possible future disclosure of bid prices, other bid details, costs of utility self-build proposals and details associated with such proposals, bid evaluation results, and any other information that the utility may seek to protect as highly confidential.~~

- (k) Descriptions of at least three alternate plans that can be used to represent the costs and benefits from increasing amounts of renewable energy resources, demand-side resources, or Section 123 resources potentially included in a cost-effective resource plan. One of the alternate plans shall represent a baseline case that describes the costs and benefits of the new utility resources required to meet the utility's needs during the planning period that minimize the net present value of revenue requirements and that complies with the Renewable Energy Standard, 4 CCR 723-3-3650 et seq., as well as with the demand-side resource requirements under § 40-3.2-104, C.R.S. The other alternate plans shall represent alternative combinations of resources that meet the same resource needs as the baseline case but that include proportionately more renewable energy resources, demand-side resources, or Section 123 resources. The utility shall propose a range of possible future scenarios and input sensitivities for the purpose of testing the robustness of the alternate plans under various parameters.
- (l) An assessment of the costs and benefits of the integration of intermittent renewable energy resources on the utility's system, including peer-reviewed studies, consistent with the amounts of renewable energy resources the utility proposes to acquire.

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, 3609(a) and 3610. Each cooperative generation and transmission association shall also file annual reports pursuant to subparagraphs (a)(I) through (a)(VI) of rule 3610~~87~~.

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[indicates omission of unaffected rules]

3609. Planning Reserve Margins and Contingency Plans.

- (a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices).
- (b) The utility shall develop and justify planning reserve margins for the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: (1) the development of generation, (2) losses of generation capacity, (3) purchase of power, (4) losses of transmission capability, (5) risks due to known or reasonably expected changes in environmental regulatory requirements, and (6) other risks. The utility shall develop planning reserve margins for its system over the planning period beyond the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.
- (c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its proposed contingency plans for the acquisition of (1) additional resources if actual circumstances deviate from the most likely

estimate of future resource needs developed pursuant to rule 3610, or (2) replacement resources in the event that resources are not developed in accordance with a Commission-approved plan under rule 36176. The utility will identify the estimated costs it will incur in developing the contingency plan for addressing the acquisition of these resources (e.g., purchasing equipment options, establishing sites, engineering). The Commission will consider approval of contingency plans only after the utility receives bids, as described in subparagraph 36187(b)(II). The provisions of paragraph 36176(d) shall not apply to the contingency plans unless explicitly ordered by the Commission.

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[indicates omission of unaffected rules]

3613. Bid Evaluation and Selection.

- (a) Upon the receipt of bids in its competitive acquisition process, the utility shall investigate whether each potential resource meets the requirements specified in the resource solicitation and shall perform an initial assessment of the bids. Within 45 days of the utility's receipt of bids, the utility shall provide electronic notice in writing to the owner or developer of each potential resource stating whether its bid is advanced to computer-based modeling to evaluate the cost or the ranking of the potential resource. If, after the utility issues notice to an owner or developer that the potential resource was not advanced to modeling, the utility subsequently advances a potential resource to computer modeling, the utility shall provide electronic notice in writing to the owner or developer of that potential resource within three business days of the utility's decision to advance the potential resource to computer modeling.
- (b) After receiving notice from the utility pursuant to paragraph (a) of this rule, the owner or developer of a potential resource may request the utility to provide modeling inputs and assumptions related to that facility. The owner or developer shall make a request for such information electronically in writing to the utility within seven calendar days of receiving notice. The utility shall provide such information within seven calendar days after receipt of the written request, unless otherwise ordered by the Commission, to the person identified by the owner or developer of a potential resource in its response to the utility's RFP.
- (I) These modeling inputs and assumptions shall include any parameter that reasonably relates to that potential resource facility, or to the transmission of electricity from that facility to the utility, that is programmed into a computer-based model used to evaluate the cost or the ranking of that resource.
- (II) In the event that or a portion of the modeling inputs and assumptions are confidential or highly confidential, the owner or developer shall execute an appropriate nondisclosure agreement prior to receiving this information.
- (III) If the owner or developer of a potential resource claims that a modeling error or omission exists, the owner or developer shall provide to the utility an electronic written notice of the specific details of the modeling error or omission within 14 days of when it received the modeling inputs and assumptions from the utility under paragraph 3613(b). The owner or developer shall attempt to resolve this dispute with the utility. However, if the owner or developer and utility cannot resolve the dispute, either the owner or developer or the

utility may file a motion with the Commission for determining whether a modeling error or omission exists regarding the potential resource. Response time to the motion shall be seven calendar days. Further, within seven calendar days after the filing of the pleading asserting that a modeling error or omission exists, the independent evaluator retained under rule 3612 shall file with the Commission its assessment of the claimed modeling error or omission. If the owner or developer is not already a party to the proceeding, the owner or developer shall file a notice of intervention as of right pursuant to paragraph 1401(b) of the Commission's Rules of Practice and Procedure for the limited purpose of resolving the modeling error or omission contemporaneously with either its motion or its response to the utility's motion. If the Commission determines that a modeling error or omission exists with respect to the potential resource, the Commission shall enter an order requiring the utility to perform additional modeling to confirm that the potential resource is fairly and accurately represented. The utility shall file revised modeling results with the Commission within ten days of the issuance of the Commission decision requiring such additional modeling, unless otherwise ordered by the Commission.

- (ac) Within 120 days of the utility's receipt of bids in its competitive acquisition process, the utility shall file a report with the Commission describing the cost-effective resource plans that conform to the range of scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, or Section 123 resources as specified in the Commission's decision approving or rejecting the utility plan developed under rule 3604. In the event that the utility's preferred cost-effective resource plan differs from the Commission-specified scenarios, the utility's report shall also set forth the utility's preferred plan. The utility's plan shall also provide the Commission with the best value employment metrics information provided by bidders under rule 361~~65~~ and by the utility pursuant to rule 3611.
- (bd) Within 30 days after the filing of the utility's 120-day report under paragraph 3613(ca), the IE shall separately file a report that contains the IE's analysis of whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. The IE shall provide confidential versions of these reports to Staff of the Commission and the OCC.
- (ee) Within 45 days after the filing of the utility's 120-day report under paragraph 3613(ca), the parties in the resource plan proceeding may file comments on the utility's report and the IE's report.
- (df) Within 60 days after the filing of the utility's 120-day report under paragraph 3613(ca), the utility may file comments responding to the IE's report and the parties' comments.
- (eg) Within 90 days after the receipt of the utility's 120-day report under paragraph 3613(ca), the Commission shall issue a written decision approving, conditioning, modifying, or rejecting the utility's preferred cost-effective resource plan, which decision shall establish the final cost-effective resource plan. The utility shall pursue the final cost-effective resource plan either with a due diligence review and contract negotiations, or with applications for CPCNs (other than those CPCN's provided in paragraph 3611(e)), as necessary. In rendering the decision on the final cost-effective resource plan, the Commission shall weigh the public interest benefits of competitively bid resources provided by other utilities and non-utilities as well as the public interest benefits of resources owned by the utility as rate base investments. In accordance with §§ 40-2-123, 40-2-124, 40-2-129, and 40-3.2-104, C.R.S, the Commission shall also consider renewable energy resources; resources that produce minimal emissions or minimal

environmental impact; energy-efficient technologies; and resources that affect employment and the long-term economic viability of Colorado communities. The Commission shall further consider resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.

(h) The utility shall conclude the competitive acquisition process within 12 months after the utility's receipt of bids in its competitive acquisition process. The utility must execute final contracts for the potential resources within 12 months after the utility's receipt of bids to receive the presumption of prudence afforded by paragraph 3616(d), unless otherwise approved by the Commission.

3614. Confidential Information Regarding Electric Generation Facilities

(a) In any proceeding related to a resource plan filed under rule 3603 or an amendment to an approved plan filed under rule 3619, or pursuant to a request for information made under paragraph 3615(b), the provisions regarding confidential information set forth in rules 1100 through 1104 of the Commission's Rules of Practice and Procedure shall apply, in addition to this rule 3614, with the following modifications:

(l) The utility shall provide information claimed to be highly confidential under subparagraph 1100(a)(III) to any attorney representing a party in the ERP proceeding, provided that said attorney files an appropriate non-disclosure agreement containing the terms listed in subparagraph (A) of this rule. The utility shall also provide information claimed to be highly confidential under subparagraph 1100(a)(III) to any subject matter expert representing a party in the ERP proceeding, provided that the attorney representing the party and the subject matter expert both file the appropriate non-disclosure agreements containing the terms in subparagraphs (A) and (B) of this rule. The utility shall provide such information only during the course of any proceeding related to a resource plan filed pursuant to rule 3603 or an amendment to an approved plan filed under rule 3619, or pursuant to a request for information made under paragraph 3615(b).

(A) Attorney highly confidential nondisclosure agreement terms.

I state that I have read the protective provisions relating to confidential information contained in Rules 4Code of Colorado Regulations 723-1-1100 through 1102. With respect to all information claimed to be confidential and all information claimed to be highly confidential that is produced in, or arises in the course of this proceeding in Docket No. [_____], I agree to be bound by the terms of the protective provisions contained in Rule 4 Code of Colorado Regulations 723-1-1100. I hereby state that I will oversee the processes my client uses in order to assure that extraordinary confidentiality provisions are properly implemented and maintained. I hereby state that I did not and will not develop or assist in the development of any power supply proposals associated with this proceeding. I further agree and affirm that in consideration of being provided access to certain Highly Confidential Information in this Docket No.[_____] from which bid pricing might be inferred, I will not represent any bidder, or consult with any bidder, who intends to respond to future power supply solicitations by [utility] for two years after the date of this agreement. I further state that I do not and will not represent or consult with any other electric utility in Colorado for two years after the date of this agreement.

(B) Subject Matter Expert highly confidential nondisclosure agreement terms.

I state that I have read the protective provisions relating to confidential information contained in Rules 4 Code of Colorado Regulations 723-1-1100 through 1102. With respect to all information claimed to be confidential and all information claimed to be highly confidential that is produced in, or arises in the course of this proceeding in Docket No. [], I agree to be bound by the terms of the protective provisions contained in Rule 4 Code of Colorado Regulations 723-1-1100. I hereby state that I will work with my attorney, [attorney name], to assure that extraordinary confidentiality provisions are properly implemented and maintained. I hereby state that I did not and will not develop or assist in the development of any power supply proposals associated with this proceeding. I further agree and affirm that in consideration of being provided access to certain Highly Confidential Information in this Docket No. [] from which bid pricing might be inferred, I will not represent any bidder, or consult with any bidder, who intends to respond to future power supply solicitations by [utility] for two years after the date of this agreement. I further state that I do not and will not represent or consult with any other electric utility in Colorado for two years after the date of this agreement.

(b) In order to expedite party access to confidential information at the beginning of the resource planning proceeding, a party may file for intervention prior to the end of the 30-day notice period established in rule 1401(a) of the Commission's Rules of Practice and Procedure. If the intervenor requests expedited treatment, it shall state conspicuously in its motion for intervention "REQUEST FOR EXPEDITED TREATMENT AND SHORTENED RESPONSE TIME TO FIVE BUSINESS DAYS, PURSUANT TO RULE 3614(d)." The party shall provide an electronic copy of the motion to the utility when it files such motion with the Commission. If a party makes such request, response time to this motion is automatically shortened to five business days.

36143615. Exemptions and Exclusions.

- (a) The following resources need not be included in an approved resource plan prior to acquisition:
- (I) Emergency maintenance or repairs made to utility-owned generation facilities.
 - (II) Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than 30 megawatts.
 - (III) Capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for not more than a two year term (including renewal terms) or for not more than 30 megawatts of capacity.
 - (IV) Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than 30 megawatts, based on the utility's share of the total power generation at the facility site and that have an estimated cost of not more than \$30 million.
 - (V) Interruptible service provided to the utility's electric customers.
 - (VI) Modification to, or amendment of, existing power purchase agreements provided the modification or amendment does not extend the agreement more than four years, does not add more than 30 MW of capacity to the utility's system, and is cost effective in comparison to other supply-side alternatives available to the utility.

- (VII) Utility investments in emission control equipment at existing generation plants.
- (VIII) Utility administered demand-side programs implemented in accordance with § 40-3.2-104, C.R.S.

(b) If the utility evaluates an existing or proposed electric generating facility offered in a competitive bidding process conducted outside of an approved resource plan, the utility shall, upon request, provide the owner or developer of the electric generation facility with reasonable and timely access to the modeling inputs and assumptions that were used to evaluate the facility in a manner consistent with the terms specified in paragraphs(a) and (b) of rule 3613.

36153616. Request(s) For Proposals.

- (a) Purpose of the request(s) for proposals. The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire additional resources pursuant to rule 3611. To minimize bidder exceptions and to enhance bid comparability, the utility shall include in its proposed RFP(s) a model contract to match each type of resource need, including contracts for supply-side resources, renewable energy resources, or Section 123 resources as required by the approved resource plan.
- (b) Contents of the request(s) for proposals. The proposed RFP(s) shall include the bid evaluation criteria the utility plans to use in ranking the bids received. The utility shall also include in its proposed RFP(s): (1) details concerning its resource needs; (2) reasonable estimates of transmission costs for resources located in different areas pursuant to rule 3608, including a detailed description of how the costs of future transmission will apply to bid resources; (3) the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control; (4) the utility's proposed model contract(s) for the acquisition of resources; (5) proposed contract term lengths; (6) discount rate; (7) general planning assumptions; and (8) any other information necessary to implement a fair and reasonable bidding program.
- (c) Employment metrics. The utility shall request from bidders the following information relating to best value employment metrics for each bid resource:
 - (I) The availability of training programs, including training through apprenticeship programs registered with the United States Department of Labor, Office of Apprenticeship and Training;
 - (II) The employment of Colorado workers as compared to importation of out-of-state workers;
 - (III) Long-term career opportunities; and
 - (IV) Industry-standard wages, health care, and pension benefits.
- (d) In conjunction with issuing its RFP, the utility shall provide potential bidders with a copy of the Commission's order or orders specifying the form of nondisclosure agreement necessary to obtain access to confidential and highly confidential modeling inputs and assumptions sought pursuant to paragraph 3613(b).

(e) Within the RFP the utility shall require bidders to provide the contact name of the owner or developer designated to receive notice under paragraph 3613(a).

(f) As a part of its RFP, the utility shall disclose to bidders that all bid information will be released to the public 12 months after the utility receives the bid pursuant to rule 3613.

36163617. Commission Review and Approval of Resource Plans.

- (a) Review on the merits. The utility's plan, as developed pursuant to rule 3604, shall be filed as an application; shall meet the requirements of paragraphs 3002(b) and 3002(c); and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure. The Commission may hold a hearing for the purpose of reviewing, and rendering a decision regarding, the contents of the utility's filed resource plan.
- (b) Basis for Commission decision. Based upon the evidence of record, the Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part, to the utility's plan filed in accordance with rule 3604. If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission and shall provide copies to all parties who participated in the application docket concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.
- (c) Contents of the Commission decision. The Commission decision approving or denying the plan shall address the contents of the utility's plan filed in accordance with rule 3604. If the record contains sufficient evidence, the Commission shall specifically approve or modify: (1) the utility's assessment of need for additional resources in the resource acquisition period; (2) the utility's plans for acquiring additional resources through an all-source competitive acquisition process or through an alternative acquisition process; (3) components of the utility's proposed RFP, such as the model contracts and the proposed evaluation criteria; and (4) the alternate scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, or Section 123 resources. A Commission decision pursuant to paragraph 3613(eg) shall become part of the decision approving or modifying a utility's plan developed under rule 3604.
- (d) Effect of the Commission decision. A Commission decision specifically approving the components of a utility's plan creates a presumption that utility actions consistent with that approval are prudent.
 - (l) In a proceeding concerning the utility's request to recover the investments or expenses associated with new resources:
 - (A) The utility must present prima facie evidence that its actions were consistent with Commission decisions specifically approving or modifying components of the plan.

- (B) To support a Commission decision to disallow investments or expenses associated with new resources on the grounds that the utility's actions were not consistent with a Commission approved plan, an intervenor must present evidence to overcome the utility's prima facie evidence that its actions were consistent with Commission decisions approving or modifying components of the plan. Alternatively, an intervenor may present evidence that, due to changed circumstances timely known to the utility or that should have been known to a prudent person, the utility's actions were not proper.
- (II) In a proceeding concerning the utility's request for a CPCN to meet customer need specifically approved by the Commission in its decision on the final cost-effective resource plan, the Commission shall take administrative notice of its decision on the plan. Any party challenging the Commission's decision regarding need for additional resources has the burden of proving that, due to a change in circumstances, the Commission's decision on need is no longer valid.

36173618. Reports.

- (a) Annual progress reports. The utility shall file with the Commission, and shall provide to all parties to the most recent resource planning docket, annual progress reports after submission of its plan application. The annual progress reports will inform the Commission of the utility's efforts under the approved plan and the emerging resource needs and potential utility proposals that may be part of the utility's next electric resource plan filing. Annual progress reports shall contain the following, for a running ten-year period beginning at the report date:
 - (I) An updated annual electric demand and energy forecast developed pursuant to rule 3606.
 - (II) An updated evaluation of existing resources developed pursuant to rule 3607.
 - (III) An updated evaluation of planning reserve margins and contingency plans developed pursuant to rule 3609.
 - (IV) An updated assessment of need for additional resources developed pursuant to rule 3610.
 - (V) An updated report of the utility's plan to meet the resource need developed pursuant to rule 3611 and the resources the utility has acquired to date in implementation of the plan.
 - (VI) In addition to the items required in subparagraphs(a)(I) through (a)(V), a cooperative electric generation and transmission association shall include in its annual report a full explanation of how its future resource acquisition plans will give fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.

- (b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:
- (I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: (1) the identity of the bidders and the number of bids received, (2) the quantity of MW offered by bidders, (3) a breakdown of the number of bids and MW received by resource type, and (4) a description of the prices of the resources offered.
 - (II) Upon the completion of the competitive acquisition process pursuant to paragraph 3613(h), the utility shall file a report summarizing all bids and utility proposals. This report shall be available to the public, and at a minimum shall include: bid capacity and energy prices; utility proposed capital costs and operations and maintenance costs; levelized energy costs, heat rates, transmission costs, renewable energy profiles, and availability limitations of each bid and utility proposal; and all parameters used in the evaluation or modeling of the facility.
 - (III) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file, within 30 days after bids are received, an application for approval of a contingency plan. The application shall include the information required by rules 3002(b) and 3002(c), the justification for need of the contingency plan, the proposed action by the utility, the expected costs, and the expected timeframe for implementation.

36183619. Amendment of an Approved Plan.

The utility may file, at any time, an application to amend the contents of a plan approved pursuant to rule 36176. Such an application shall meet the requirements of paragraphs 3002(b) and 3002(c), shall identify each proposed amendment, shall state the reason for each proposed amendment, and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure.

36193620. – 3649. [Reserved]

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[indicates omission of unaffected rules]