

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

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[indicates omission of unaffected rules]

3102. Certificate of Public Convenience and Necessity for Facilities.

- (a) A utility seeking authority to construct and to operate a facility or an extension of a facility pursuant to § 40-5-101, C.R.S., shall file an application pursuant to this rule. The utility need not apply to the Commission for approval of construction and operation of a facility or an extension of a facility which is in the ordinary course of business. The utility shall apply to the Commission for approval of construction and operation of a facility or an extension of a facility which is not in the ordinary course of business.
- (b) An application for certificate of public convenience and necessity to construct and to operate facilities or an extension of a facility pursuant to § 40-5-101, C.R.S., shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required in rules 3002(b) and 3002(c).
 - (II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application or citation to any Commission decision that is relevant to the proposed facilities.
 - (III) A description of the proposed facilities to be constructed.
 - (IV) Estimated cost of the proposed facilities to be constructed. If the facility is a transmission facility, the estimated costs shall be itemized as land costs, substation costs, and transmission line costs.
 - (V) Anticipated construction start date, construction period, and in-service date.
 - (VI) A map showing the general area or actual locations where facilities will be constructed, population centers, major highways, and county and state boundaries.
 - (VII) As applicable, electric one-line diagrams.
 - (VIII) As applicable, information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives.
 - (IX) As applicable, a report of prudent avoidance measures considered and justification for the measures selected to be implemented.

- (X) For transmission construction or extension, the utility shall also comply with rule 3206.
- (c) For an application for a certificate of public convenience and necessity for construction or extension of transmission facilities, the applying utility shall describe its actions and techniques relating to cost-effective noise mitigation with respect to the planning, siting, construction, and operation of the proposed transmission construction or extension. The applying utility shall provide computer studies which show the potential noise levels expressed in db(A) and measured at the edge of the transmission line right-of-way. These computer studies shall be the output of utility standard programs, such as EPRI's EMF Workstation 2.51 ENVIRO Program -- Bonneville Power Administration model. The steps and techniques may include, without limitation, the following:
- (I) Bundled conductors.
 - (II) Larger conductors.
 - (III) Design alternatives considering the spatial arrangement of phasing of conductors.
 - (IV) Corona-free attachment hardware.
 - (V) Conductor quality.
 - (VI) Handling and packaging of conductor.
 - (VII) Construction techniques.
 - (VIII) Line tension.
- (d) For an application for a certificate of public convenience and necessity for construction or extension of transmission facilities, the applying utility shall describe its actions and techniques relating to prudent avoidance with respect to planning, siting, construction, and operation of the proposed construction or extension. As used in this paragraph, "prudent avoidance" means the striking of a reasonable balance between the potential health effects of exposure to magnetic fields and the cost and impacts of mitigation of such exposure, by taking steps to reduce the exposure at reasonable or modest cost. The steps and techniques may include, without limitation, the following:
- (I) Design alternatives considering the spatial arrangement of phasing of conductors.
 - (II) Routing lines to limit exposures to areas of concentrated population and group facilities such as schools and hospitals.
 - (III) Installing higher structures.
 - (IV) Widening right of way corridors.
 - (V) Burying lines.

- (e) To the extent the information is known or can be estimated with a reasonable degree of certainty at the time the application is filed, an application for a certificate of public convenience and necessity for construction or expansion of generation facilities, including but not limited to pollution controls or fuel conversion upgrades and conversion of existing coal-fired plants to natural gas plants, must contain the following information regarding "best value" employment metrics:
- (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) 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.
- (f) If the information regarding best employment value metrics specified in paragraph 3102(e) is not known at the time an application for a certificate of public convenience and necessity is filed because the applicant has not yet entered into contracts for construction or expansion of the generation facilities for which a CPCN is sought (proposed project), then in the application the applicant shall state that, for the proposed project, it will obtain the information regarding best value employment metrics specified in paragraph 3102(e) from potential contractors through whatever means the applicant uses to select contractors for project construction. If one or more contracts are awarded for the proposed project, then, within 45 days after the last contract is awarded, the applicant shall file in the application proceeding a status report that contains for each contract the information obtained from the contractor with which the utility has entered into a contract (selected contractor) regarding how the selected contractor meets best value employment metrics. Any party may file in the application proceeding comments on this status report within 15 days of the filing of the status report with the Commission. The status report and comments are informational and, absent a Commission order, do not reopen the application proceeding. The utility may file any information regarding a selected contractor's wages on a highly confidential basis.

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3205. Construction or Expansion of Generating Capacity.

- (a) No utility may commence new construction or an expansion of generation facilities or projects until either the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity or the Commission issues a certificate of public convenience and necessity for the facility or project. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of generation facilities provided that such construction or expansion is contained entirely within the cooperative's certificated area. The certificate of public convenience and necessity requirement under subparagraph (b)(II) of this rule applies only to jurisdictional electric utilities subject to resource regulation under Rule 3603 and rate regulation under either Rule 3108 or Rule 3109.
- (b) The following shall be deemed to occur in the ordinary course of business and shall not require a certificate of public convenience and necessity:

- (I) New construction or expansion of existing generation, which will result in an increase in generating capacity of less than ten megawatts.
- (II) A generating plant remodel, or installation of any equipment or building space, required for pollution control systems where the estimated total cost in nominal dollars including, but not limited to, engineering, procurement, construction, and interrelated work for such project is reasonably expected to be less than \$50 million. The total estimated project cost below which a project is considered to be in the ordinary course of business shall be reviewed and adjusted annually, as necessary, to account for inflation. Within 14 days after the appropriate information is available, the Director of the Commission shall annually determine and publish the amount of such adjustment based on the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index.
- (III) When a certificate of public convenience and necessity is sought for a pollution control system required by a determination of the Colorado Department of Public Health and Environment or an identified law, regulation, or administrative or judicial order, there is a presumption, rebuttable by a preponderance of the evidence, that the public convenience and necessity require such pollution control system. This presumption does not alter or diminish the Commission's duty and authority, including its consideration:
 - (A) in a CPCN proceeding, of the utility's cost estimate for the proposed pollution control project, and whether the utility should pursue plant retirement (with or without an associated plant replacement) or fuel switching as alternatives to the pollution control project; and
 - (B) in a subsequent rate proceeding, of the prudence, justness, and reasonableness of costs associated with the pollution control project.
- (c) For each new construction or expansion of existing generation that will result in an increase in generating capacity of ten megawatts or more, the electric utility shall submit to the Commission, no later than April 30 of each year, a filing for a determination of which of the utility's proposed new construction or expansions for the next three calendar years, commencing with the year following the filing, are necessary in the ordinary course of business and which require a certificate of public convenience and necessity prior to construction. For each project, the filing shall contain the following:
 - (I) The name, proposed location, and function or purpose of the project.
 - (II) The estimated cost of the project and the manner in which it is expected to be financed.
 - (III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation.
- (d) The Commission will give notice of each filing made pursuant to paragraph (c) of this rule to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (e) The Staff shall review the filing and any comments received and shall make recommendations in accordance with the following schedule:

- (I) For any new construction or expansion project which is scheduled to begin in the year of the filing or the next calendar year and which will result in an increase in generating capacity of ten megawatts or more, the Staff shall make its recommendations by May 31 of the year in which the filing is made.
 - (II) For any new construction or expansion project which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more, the Staff shall make its recommendations by August 31 of the year in which the filing is made.
- (f) The Commission shall issue its decision in accordance with the following schedule:
- (I) For any new construction or expansion project which is scheduled to begin in the calendar year of the filing or in the next calendar year and which will result in an increase in generating capacity of ten megawatts or more, the decision designating each generation project that requires a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.
 - (II) For any new construction or expansion project which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more, the decision designating each generation project that requires a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.

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