

Decision No. R20-0423-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0654E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, RELATING TO INTERCONNECTION PROCEDURES AND STANDARDS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
SCHEDULING REMOTE PUBLIC RULEMAKING
HEARING AND NOTICE OF HEARING**

Mailed Date: June 5, 2020

I. STATEMENT

1. On November 25, 2019, the Colorado Public Utilities Commission issued a Notice of Proposed Rulemaking (NOPR) to amend the rules governing Interconnection Standards and Procedures (Interconnection Rules) within the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3.¹ The NOPR proposed substantive changes to the Interconnection Rules. The NOPR adopted a schedule for filing initial and reply comments.

2. On January 7, 2020, initial comments were filed by the City and County of Denver, the Colorado Energy Office (CEO), the Colorado Rural Electric Association (CREA), the Colorado Solar and Storage Association (COSSA) and the Solar Energy Industries Association (SEIA), Public Service Company of Colorado (Public Service), and Western Resource Advocates (WRA).

¹ Decision No. C19-0951 (mailed on November 25, 2019).

3. On January 21, 2020, reply comments were filed by Black Hills Colorado Electric, LLC (Black Hills), COSSA and SEIA, Public Service, SunShare, LLC (SunShare), Vote Solar, and WRA. On January 22, 2020, reply comments were filed by CEO and CREA. On January 31, 2020, public comments were filed by Pivot Energy.

4. Administrative Law Judge (ALJ) Steven H. Denman was assigned to preside over this proceeding. Pursuant to the NOPR, the public rule-making hearing was held on February 3, 2020. Oral comments were presented by representatives of Public Service, CEO, COSSA and SEIA, Black Hills, and SunShare. The Participants at the rule-making hearing requested time before filing post-hearing comments within which to attempt to negotiate consensus rules.² The ALJ agreed, and by Bench Order, the ALJ set March 4, 2020, as the due date for Participants to file post-hearing comments.

5. Decision No. R20-0134-I (mailed on March 2, 2020) extended the due date for Participants to file post-hearing comments to and including March 20, 2020.

6. Joint Consensus Interconnection Rules were filed on March 20, 2020, by Public Service, Black Hills, COSSA and SEIA, and WRA. On March 20, 2020 post-hearing comments were filed individually by Public Service, WRA, Black Hills, COSSA and SEIA, and CEO.

7. Pursuant to § 24-4-103(4)(d), C.R.S., the agency conducting the rulemaking proceeding shall adopt the rules within “one hundred eighty days after the last public hearing on the proposed rule[s].” In the case of this rulemaking that deadline is July 31, 2020.

8. On April 2, 2020, COSSA filed a Petition for Declaratory Order *inter alia* seeking to remedy confusion about available interconnection capacity for community solar garden

² Interested persons, government agencies, or organizations that filed written comments or made oral comments at the public rule-making hearing will be referred to in this Decision as “Participants.”

projects (CSGs) developed pursuant to Public Service's 2017-19 Renewable Energy Plan. (See Proceeding No. 20D-0148E.) In Decision No. C20-0406 (mailed on May 29, 2020), the Commission granted the Petition and held that, for such CSGs, current law allows commonly-owned projects to co-locate up to 5 MW in total aggregate capacity. As a result, the Commission clarified that the co-location restrictions, in a Settlement Agreement approved by Decision No. C16-1075 (issued on November 23, 2016) in Proceeding No. 16A-0139E, apply only to commonly-owned projects that exceed 5 MW of total aggregate capacity of projects awarded in bids during the 2017-19 bidding years. The Commission also concluded that impacted developers may relocate planned CSGs for which Public Service has issued No Capacity Notices to new sites by co-locating those relocated projects with other awarded 2017-19 bids of up to 5 MW in total aggregate capacity. By these rulings, the Commission applied § 40-2-127(2)(b)(I)(D), C.R.S. (2019), which increased the nameplate rating of a CSG from 2 MW to 5 MW.

9. Decision No. C19-0951, the NOPR, held that: "The ALJ may set additional hearings, if necessary."³ The record in this Proceeding contains a large volume of written and oral comments, as well as extensive post-hearing comments and numerous revisions to the proposed rules. The ALJ has determined that holding an additional public rulemaking hearing is needed to gather additional information from Participants and to help clarify certain issues, so that the ALJ may fully evaluate and consider the arguments and revised rules proposed by the Participants.

³ Decision No. C19-0951, Ordering Paragraph No. 5 at page 21.

10. An additional public rulemaking hearing will be scheduled for Monday, July 27, 2020 at 9:30 a.m. Notice of the additional rulemaking hearing will be published in the June 25, 2020 issue of *The Colorado Register* pursuant to the Administrative Procedure Act.⁴

11. The ALJ also requests that Participants comment on the following questions, which will assist that ALJ in clarifying previously submitted written, oral, or post-hearing comments:

- a. Does the Commission's Decision No. C20-0406 in Proceeding No. 20D-0148E require any Participant to change or to clarify any of its previously submitted comments in this Proceeding? If so, please state the modifications or clarifications to your previously submitted comments, as well as why you are making those modifications or clarifications.
- b. The terms "Mainline," "Transmission System," and "Witness Test" are used in various proposed rules, but are not defined in Proposed Rule 3852. Some Participants have proposed definitions to one of these terms, but not to others. Please provide a definition to each of these terms, if you have not already done so.
- c. If you have additional information to support your previously stated position on Proposed Rule 3853(p) "Implementation by tariff," please provide it.⁵
- d. In its post-hearing comments CEO proposed, for the first time, Rule 3853(q), which would require each utility to submit an interconnection report to the Commission twice per year on a number of interconnection-related topics. Please comment on the merits of CEO's proposed Rule 3853(q), including whether such reporting requirements belong in other Commission rules (*e.g.*, in the Distribution System Planning rules being considered in Proceeding No. 19M-0670E).

12. Participants who wish to file additional written comments addressing these or other matters will be ordered to file such additional comments on or before July 20, 2020.

⁴ See § 24-4-103(3)(a), C.R.S.

⁵ For example, after suggesting they may have misunderstood the intent of the proposed rule, COSSA/SEIA rewrote Proposed Rule 3853(p), without much discussion about how their revisions would promote the intent of the NOPR. Public Service recommended deleting the rule in its initial redlined rules, providing little rationale and no alternatives in its initial and reply comments, while its post-hearing comments failed to mention Proposed Rule 3853(p).

13. The ALJ finds that, given the uncertainty which the novel coronavirus (COVID-19) pandemic creates on future public gatherings, it is in the best interests of the parties and Commission personnel to hold the rulemaking hearing remotely and that doing so is consistent with emergency declarations and public health advisories to prevent the spread of COVID-19. Therefore, the ALJ will order that the rulemaking hearing be held remotely by video conference.

14. The Commission prefers written comments over oral comments. As a result, interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Both oral and written comments will be given the same weight in this proceeding. Interested persons are urged to submit their written comments by June 19, 2020, to give the ALJ an opportunity to review them in advance of the remote rulemaking hearing.

15. For those individuals who want to provide oral comments, the Commission will use the web-hosted video conferencing service, GoToMeeting, to hold video conferences, and in this case, a remote public rulemaking hearing. Video-conference participation allows for oral comments to be presented in a manner most similar to that which occurs during in-person hearings. Individuals who wish to provide oral comments during the public rulemaking hearing can participate and provide their comments either by telephone or computer. Attachment A to this Decision sets forth general instructions and requirements for how to participate by telephone or by computer. These requirements are intended to ensure that the remote hearing proceeds efficiently without technical problems. Attachment A includes important requirements and

technical information on participating in the hearing through GoToMeeting. Hence, it is vitally important that Participants and counsel carefully review and follow all requirements in this Decision and Attachment A.

16. To Participate by Telephone. Any member of the public or party who wishes to provide comments by telephone during the remote public rulemaking hearing must call +1 872-240-3212 when the hearing takes place. When prompted, input the pin 398-090-621. You will then be placed into the public rulemaking hearing. Please note that your session and participation will be controlled by the ALJ/Commission Staff. When you are not speaking, please mute your telephone.

17. To Participate by Computer. Any member of the public or Participant who wishes to participate in the public rulemaking hearing by computer must use a computer that is connected to the internet and has a microphone and a speaker. At the time of the hearing, please go to <https://global.gotomeeting.com/join/861229013>. When you are not speaking, please mute your microphone. Attachment A contains detailed instructions for participating in the hearing using GoToMeeting.

18. The ALJ anticipates that the hearing will be webcast, consistent with Commission practice. This means that those persons wishing to observe the hearing may do so without needing to join the hearing online. Please use the audio or video connection for Hearing Room B found at <https://puc.colorado.gov/webcasts>.

II. ORDER

A. It Is Ordered That:

1. Additional written comments from interested persons on the proposed amendments to the rules governing Interconnection Standards and Procedures shall be due on or before July 20, 2020.

2. A remote public rulemaking hearing is scheduled for July 27, 2020. It shall take place from 9:30 a.m. until it is concluded. Members of the public or Participants in the previous hearing who wish to participate in and/or to provide oral comments at the remote public rulemaking hearing, must follow the instructions stated above in Paragraphs 15, 16, and 17 of this Interim Decision and in Attachment A.

3. Members of the public should *not* attend the public rulemaking hearing in-person.

4. All Participants must comply with the requirements in Attachment A to this Decision, which is incorporated herein.

5. The Administrative Law Judge may schedule additional hearings, if necessary.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director