

## **COLORADO DEPARTMENT OF REGULATORY AGENCIES**

### **Public Utilities Commission**

#### **4 CODE OF COLORADO REGULATIONS (CCR) 723-3**

### **PART 3 RULES REGULATING ELECTRIC UTILITIES**

#### **3001. Definitions.**

The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise. In addition to the definitions here, the definitions found in the Public Utilities Law and Part 1 apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply. In the event of a conflict between these definitions and a definition in Part 1, these definitions shall apply.

- (a) "Advanced metering infrastructure" means an integrated system of smart electric utility meters and communication networks that enables two-way communication between an electric utility's data systems and the meter's internet protocol address and allows the electric utility to measure electricity usage and/or connect or disconnect service remotely.
- (b) "Affiliate" of a utility means a subsidiary of a utility, a parent corporation of a public utility, a joint venture organized as a separate corporation or partnership to the extent of the individual utility's involvement with the joint venture, a subsidiary of a parent corporation of a utility or where the utility or the parent corporation has a controlling interest over an entity.
- (c) "Aggregated data" means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) and/or the compilation of customer data of one or more customers from which all unique identifiers and personal information has been removed.
- (d) "Applicant for service" means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (e) "Base rate" means charges used to recover costs of utility infrastructure and operations, including a return on capital investment, not otherwise recovered through a utility rate adjustment mechanism.
- (f) "Basis point" means one-hundredth of a percentage point (100 basis points = one percent).
- (g) "Benefit of service" means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.

- (h) "Commission" means the Colorado Public Utilities Commission.
- (i) "Contracted agent" means any person that has contracted with a utility in compliance with rule 3030 to assist in the provision of regulated utility services (e.g., an affiliate or vendor).
- ~~(j)~~ "Craft labor certification" means all documentation and certification of payroll required for an energy sector public works project.
- ~~(k)~~ "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- ~~(l)~~ "Customer data" means customer-specific data or information, excluding personal information as defined in paragraph 1004(x), that is:
  - (I) collected from the electric meter by the utility and stored in its data systems (e.g., kWh, kW, voltage, VARs and power factor);
  - (II) combined with customer-specific energy usage information on bills issued to the customer for regulated utility service when not publicly or lawfully available to the general public; or
  - (III) about the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs.
- ~~(m)~~ "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs including substation transformers that transform electricity to a distribution voltage and also includes other equipment within a transforming substation which is not integral to the circuitry of the utility's transmission system.
- ~~(n)~~ "Emergency or safety event or circumstance" means a manmade or natural emergency event or safety circumstance:
  - (I) that prevents utility staff from being able to safely travel to or work at a customer's residence or place of business for purposes of reconnecting or making necessary repairs prior to reconnecting utility service; or
  - (II) for which a utility has dispatched utility staff members to help respond to the emergency or safety event or circumstance and, due to the timing or number of utility staff dispatched, the utility lacks sufficient trained staff to reconnect or make necessary repairs prior to reconnecting utility service at a customer's residence or place of business; and
  - (III) includes a severe weather event that one or more reputable weather forecasting sources forecasts to occur in the following twenty-four hours and that is more likely than not to result in dangerous travel or on-site outdoor or indoor work conditions for individuals in the path of the weather event.
- ~~(o)~~ "Energy assistance organization" means the nonprofit corporation established for low-income

energy assistance pursuant to § 40-8.5-104, C.R.S.

(p) “Energy Sector Public Works (ESPW) project” is a project pursuant to § 24-92-301, C.R.S., et seq., that for purposes of these rules:

(I) for an investor-owned utility:

(A) has the purpose of generating, transmitting, or distributing electricity to provide energy to Colorado individual consumers and businesses;

(B) is built by or for a utility, including any project for which energy is purchased through a power purchase or similar agreement;

(C) has a total project cost of \$1,000,000 or greater, of which the utility will request Commission approval for ratepayers to pay at least \$500,000;

(D) is included for approval through any proceeding conducted by the Commission as part of an electric resource acquisition pursuant to rule 3600 et seq., or a request for a certificate of public convenience and necessity pursuant to § 40-5-101, C.R.S., et seq.; and

(E) consists of either:

(i) electric power generation with a nameplate generation capacity of one megawatt or higher, or an energy storage system as defined by § 40-2-202, C.R.S., with an energy rating of one megawatt of power capacity or four megawatt hours of usable energy capacity or higher; or

(ii) pollution controls, electric transmission, electric vehicle charging infrastructure, or carbon capture and storage; and

(II) for a cooperative electric generation and transmission association, any project in Colorado that:

(A) has the purpose of generating or distributing electricity for the purposes of providing energy to Colorado individual consumers and businesses from utility customer funding of \$500,000 or more as approved by a cooperative electric association that is built by or for a utility;

(B) has a total project cost of \$1,000,000 or greater; and

(C) consists of either:

(i) electric power generation with a nameplate generation capacity of one megawatt or higher, or an energy storage system as defined by § 40-2-202, C.R.S., with an energy rating of one megawatt of power capacity or four megawatt hours of usable energy capacity or higher; or

(ii) pollution controls, electric transmission, electric vehicle charging

infrastructure, or carbon capture and storage.

- (ge) "Energy storage system" means a commercially available technology that is capable of retaining energy, storing the energy for a period of time, and delivering the energy as electricity after storage by chemical, thermal, mechanical, or other means.
- (rp) "Financial security" includes any stock, bond, note, or other evidence of indebtedness.
- (sq) "Generation facility" means a power plant that converts a primary energy resource into electricity. Primary energy resources include, but are not limited to: nuclear resources, coal, natural gas, hydro, wind, solar, biomass, and geothermal.
- (tf) "Heavy load" means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.
- (us) "Income qualified utility customer" or "low income customer" is a customer meeting the requirements of § 40-3-106(1)(d)(II), C.R.S.
- (vt) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure.
- (uw) "Light load" means approximately five to ten percent of the nameplate-rated capacity of a meter.
- (xv) "Load" means the power consumed by an electric utility customer over time (measured in terms of either demand or energy or both).
- (yw) "Local government" means any Colorado county, municipality, city and county, home rule city or town, home rule city and county, or city or town operating under a territorial charter.
- (zx) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (aay) "Main service terminal" means the point at which the utility's metering connections terminate.
- (bbz) "Major event" means an event as defined in and consistent with IEEE Standard Number 1366-2003, Guide for Electric Power Distribution Reliability Indices.
- (ccaa) "MVA" means mega-volt amperes and is the vector sum of the real power and the reactive power.
- (ddbb) "Non-standard customer data" means all customer data that are not standard customer data.
- (eeee) "Output" means the energy and power produced by a generation system.
- (ffdd) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.
- (ggee) "Powerline trail" means a multimodal trail that is: eight feet in width or wider; made of hard

surface such as concrete or compacted gravel; used for recreational purposes or commuting in a manner that does not involve a motor vehicle; and located in an existing transmission or future transmission corridor.

~~(hh)~~ "Project labor agreement," pursuant to § 24-92-303(9), C.R.S., means a pre-hire collective bargaining agreement between a lead contractor and construction labor organization(s) covering the affected trades necessary to perform work on a project that establishes the terms and conditions of employment of the construction workforce and includes provisions that:

(I) set forth effective, immediate, and mutually binding procedures for resolving jurisdictional labor disputes and grievances arising before the completion of work;

(II) contain guarantees against strikes, lockouts, or similar actions;

(III) ensure a reliable source of trained, skilled, and experienced construction craft labor;

(IV) further public policy objectives regarding improved employment opportunities for minorities, women, or other economically disadvantaged populations in the construction industry, including persons from disproportionately impacted communities, to the extent permitted by state and federal law;

(V) permit the selection of the lowest qualified responsible bidder or lowest qualified responsible offeror without regard to union or non-union status at other construction sites; and

(VI) include other terms as the parties deem appropriate.

~~(iiff)~~ "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.

~~(iigg)~~ "Property owner" means the legal owner of government record for a parcel of real property within the service territory of a utility. A utility may rely upon the records of a county clerk for the county within which a parcel of property is located to determine ownership of government record.

~~(kkhh)~~ "Qualifying communication" means one of the following methods of communicating with a utility customer about a possible upcoming disconnection of service:

(I) a physical visit to the customer's premises during which a utility representative speaks with the customer and provides the customer utility assistance information or, if the customer is not available to speak, leaves notice of proposed disconnection and utility assistance information for the customer's review; or

(II) a telephone call, text, or e-mail to the customer's last-known telephone number or email address in which:

(A) the utility representative provides the customer with notice of proposed disconnection and utility assistance information; and

- (B) the utility representative either speaks directly with the customer over the telephone or the customer receives the utility representative's text or email.
- (~~lll~~) "Rate adjustment mechanism" or "rate rider" means a charge added to a utility bill to recover a specific cost that is not part of the base rate.
- (~~mmj~~) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (~~nnk~~) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission or contained in a tariff of the utility.
- (~~oo~~) "RFP" means request for proposals.
- (~~ppm~~) "Rotating standard" means a portable meter used for testing service meters.
- (~~qq~~) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- (~~rre~~) "Service connection" is the location on the customer's premises/facilities at which a point of delivery of power between the utility and the customer is established. For example, in the case of a typical residential customer served from overhead secondary supply, this is the location at which the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.
- (~~ssp~~) "Standard customer data" means customer data maintained by a utility in its systems in the ordinary course of business.
- (~~ttq~~) "Test year" means a twelve-month period that is examined to determine a utility's costs of service in a rate case.
- (~~uu~~) "Third-party" means a person who is not the customer, an agent of the customer who has been designated by the customer with the utility and is acting of the customer's behalf, a regulated utility serving the customer, or a contracted agent, of the utility.
- (~~vy~~) "Transmission corridor" means a tract of land owned, occupied, or leased by a transmission provider as defined in § 33-45-102(11), C.R.S., or covered by an easement or right-of-way held by a transmission provider, where an electric transmission line is constructed, operated, or maintained at a voltage of 69 kilovolts or above.
- (~~wwt~~) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility's transmission system.
- (~~xxu~~) "Unique identifier" means a customer's name, mailing address, telephone number, or email address that is displayed on a bill.
- (~~yyv~~) "Unregulated charges" means charges that are billed by a utility to a customer and that are not

regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.

~~(zzww)~~ "Utility assistance information" means information that a utility representative provides a customer informing the customer that the customer may contact 1-866-HEAT-HELP (1-866-432-8435) to determine if the customer qualifies for utility bill payment assistance.

~~(aaaxx)~~ "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.

~~(bbbyy)~~ "Utility service" or "service" means a service offering of a utility, which service offering is regulated by the Commission.

~~(ccczz)~~ "Whole building data" means the sum of the monthly electric use for either all meters at a building on a parcel or real property or all buildings on a parcel of real property.

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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) For requests for construction or expansion of generating facilities, including pollution control, fuel conversion upgrades, and conversion of coal-fired plants to natural gas plants, the application shall include information about Best Value Employment metrics consistent with paragraph 3211(a) or, in the alternative, information to demonstrate that the project qualifies for an exemption under paragraph 3211(e). If the information required in paragraph 3211(a) is not available at the time an application is filed because relevant contracts have not yet been entered into, the applicant shall file a status report in the proceeding within 45 days after the last contract has been entered into that identifies how selected contractor(s) meet Best Value Employment metrics.
  - (IX) The application shall address whether it includes one or more projects that are also ESPW projects, and if so, the applicant shall further attest that material contract terms that comply with paragraph 3211(b) have been or will be included in any relevant contracts and that such terms will be required to be included in any relevant subcontracts.
  - (~~XVIII~~) As applicable, information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives, including, to the extent feasible, information on Best Value Employment metrics pursuant to paragraph 3211(a).
  - (~~XI~~) As applicable, a report of prudent avoidance measures considered and justification for the measures selected to be implemented.
  - (XII) 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 modes costs. 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) Within 30 days of final Commission approval of an application pursuant to this rule, or after the last contract has been entered into, that includes one or more ESPW projects, the applicant or its contractor(s) shall notify the Division of Labor Standards and Statistics within the Colorado Department of Labor and Employment (CDLE) about the project to facilitate the collection of craft labor certification(s).
- ~~(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.~~

**3103. Certificate Amendments for Changes in Service, in Service Territory, or in Facilities.**

- (a) A utility seeking authority to do the following shall file an application pursuant to this rule: amend a certificate of public convenience and necessity in order to extend, to restrict, to curtail, or to abandon or to discontinue without equivalent replacement any service, service area, or facility. A utility shall not extend, restrict, curtail, or abandon or discontinue without equivalent replacement, any service, service area, or facility not in the ordinary course of business without authority from the Commission.
- (b) An application to amend a certificate of public convenience and necessity in order to change, to extend, to restrict, to curtail, to abandon, or to discontinue any service, service area, or facility without equivalent replacement shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
  - (I) all information required in paragraphs 3002(b) and 3002(c);
  - (II) if the application for amendment pertains to a certificate of public convenience and necessity for facilities, all of the information required in rule 3102;
  - (III) if the application for amendment pertains to a certificate of public convenience and necessity for franchise rights, all of the information required in rule 3100;
  - (IV) if the application for amendment pertains to a certificate of public convenience and necessity for service territory, all of the information required in rule 3101;
  - (V) if the application for amendment pertains to a service, the application shall include:
    - (A) the requested effective date for the extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement of the service; and
    - (B) a description of the extension, restriction, curtailment, or abandonment or

discontinuance without equivalent replacement sought. This shall include maps, as applicable. This shall also include a description of the applying utility's existing operations and general service area.

- (c) Customer notice of application. In addition to complying with the notice requirements of the Commission's Rules Regulating Practice and Procedure, a utility applying to curtail, restrict, abandon or discontinue service without equivalent replacement shall prepare a written notice as provided in subparagraphs 3002(d)(I) - (XII) and shall mail or deliver the notice at least 30 days before the application's requested effective date to each of the applying utility's affected customers. The customer notice shall include a statement detailing the requested restriction, curtailment, or abandonment or discontinuance without equivalent replacement.
- (d) If no customers will be affected by the grant of the application, the notice must meet the requirements of subparagraphs 3002(d)(I) – (XII) and shall be mailed to the Board of County Commissioners of each affected county, and to the mayor of each affected city, town, or municipality.

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[indicates omission of unaffected rules]

### **3211. Labor Requirements.**

This rule establishes procedures to identify and plan for the use of well-trained and fairly compensated Colorado labor in the context of electric resource plans filed pursuant to rule 3600 et seq., certificates of public convenience and necessity filed pursuant to § 40-5-101, C.R.S., and in other proceedings as set forth by applicable Commission rules.

#### **(a) Best Value Employment (BVE) metrics are as follows.**

- (I) Training programs. The ability of the project to provide training programs, including training through apprenticeship programs registered with the U.S. Department of Labor's Office of Apprenticeship or by State Apprenticeship Agencies recognized by that office for all apprenticeable trades required to effectively deliver the project to completion. Compliance may be demonstrated by:
  - (A) providing a list of apprenticeable trades for the project; and
  - (B) providing documentation of registration of relevant apprenticeship programs with the State Apprenticeship Agency; or
  - (C) attesting to the entity's ability to comply with the requirements of § 24-92-115(7), C.R.S., regarding apprenticeships.
- (II) Colorado labor. The ability of the project to employ Colorado labor, as defined by § 24-4-109(2)(b)(II), C.R.S., as compared to importation of out-of-state workers.
- (III) Underserved communities. The ability of the project to employ workers from traditionally underserved communities or disproportionately impacted communities, as defined by §

24-4-109(2)(b)(II), C.R.S. and by Commission rules.

- (IV) Domestic manufacturing. The ability of the project to support domestic manufacturing through the utilization of Colorado and domestically produced materials, including consideration of the potential for domestically manufactured materials being unavailable in the marketplace.
- (V) Long-term career opportunities. The ability of the project to support long-term career opportunities.
- (VI) Wages. The ability of the project to provide industry-standard wages, health care, and pension benefits. Compliance may be demonstrated by:
  - (A) attesting to the entity's ability to comply with the requirements of Part 2 of Article 92, C.R.S., regarding prevailing wages; and further by
  - (B) providing a list of those relevant trades, crafts, or occupations for which craft labor certification will be collected and submitted.
- (b) Energy Sector Public Works (ESPW) projects. All contracts for ESPW projects made with or on behalf of the utility and relevant contractors or subcontractors must include provisions expressly requiring that all work performed under the contract:
  - (I) complies with the requirements of § 24-92-115(7), C.R.S., regarding apprenticeships; and
  - (II) complies with Part 2 of Article 92, C.R.S., regarding prevailing wages.
- (c) Relationship between BVE metrics and ESPW projects.
  - (I) All projects that bid into electric resource plans pursuant to rule 3600 et seq. are presumed to be ESPW projects unless otherwise documented in bid information.
  - (II) A project that is an ESPW project may certify compliance with the material contract terms pursuant to paragraph 3211(b) in lieu of submitting documentation for certain BVE metrics as otherwise required by subparagraphs 3211(a)(I) and (VI).
  - (III) A project that is exempt under subparagraph 3211(f)(III), may certify compliance with the material contract terms pursuant to paragraph 3211(b) in lieu of submitting documentation for certain BVE metrics as otherwise required by subparagraphs 3211(a)(I) and (VI), by meeting the applicable requirements of the Inflation Reduction Act pursuant to § 24-92-304(1)(c)(III), C.R.S.
- (d) Treatment of labor requirements in solicitation processes.
  - (I) The utility shall set forth in the bid materials the specific documentation that must be submitted regarding each BVE metric under paragraph (a), along with a quantitative framework for how it will evaluate documentation submitted by bidders. The utility must also inform bidders that it will reject any bid that fails to provide all required documentation set forth under paragraph (a).

- (II) Bidders shall notify the utility whether they are exempt from the requirements of paragraphs (a) and/or (b) based on meeting an exemption in paragraphs (e) and (f). Bidders shall provide documentation demonstrating that they are exempt.
- (III) The utility must reject bids that fail to provide appropriate documentation for BVE metrics, certify compliance with ESPW project requirements, or document exemptions from those requirements, as applicable and required by the bid materials. A utility shall notify bidders of the basis for rejection and enable errors or omissions to be corrected through the process set forth under paragraphs 3613(a) through (c).
- (IV) On a portfolio basis, the utility shall ensure that composite scores or other summary information is non-confidential to enable the Commission to deliberate publicly on the treatment of labor requirements in its decision-making.
- (e) All resources and facilities to which rule 3211 applies must provide the required information unless the bidder agrees to use a project labor agreement that meets the requirements of paragraph 3001(hh). If the project is also an ESPW project, the bidder shall also state whether the project labor agreement will meet the requirements of paragraph (b).
- (f) Exemptions for ESPW projects. Regardless of ownership, all resources and facilities to which paragraph 3211(b) applies must provide the required information unless they meet one of the following exemptions:
  - (I) the work will be performed by employees of the utility;
  - (II) the service agreement was entered into prior to March 1, 2023; or
  - (III) the project complies with the applicable requirements of the Inflation Reduction Act pursuant to § 24-92-304(1)(c)(III), C.R.S.

**321~~24~~. – 3249. [Reserved].**

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[indicates omission of unaffected rules]

**3605. Cooperative Electric Generation and Transmission Association Requirements.**

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[indicates omission of unaffected rules]

(g) Phase I.

(I) Review on the merits.

(A) The utility's electric resource plan 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 of Practice and Procedure.

- (B) The Commission may hold a hearing for the purpose of reviewing and rendering a decision regarding the contents of the utility's filed electric resource plan.
- (II) Utility plan for meeting the resource need.
  - (A) The utility shall specify the portion of the resource need that it intends to meet through a competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.
  - (B) If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire and the reason the specific resource(s) should not be acquired through a competitive acquisition process. The utility shall specify whether it agrees to use a project labor agreement for the construction or expansion of a generation facility.
  - (C) Although the utility may propose a method for acquiring new utility resources other than competitive bidding, as a prerequisite, the utility shall nonetheless include in its electric resource plan filed under paragraph 3605(a) the necessary bid policies, RFPs, and model contracts necessary to satisfy the resource need identified under paragraph 3605(f) exclusively through competitive bidding.
  - (D) The utility shall specify the competitive acquisition procedures that it intends to use to obtain resources including a schedule of bid fees graduated by the size of the proposed resources.
  - (E) The utility shall also propose, and other interested parties may provide input as part of the electric resource plan proceeding, criteria for evaluating the costs and benefits of resources such as the valuation of emissions and non-energy benefits, including, for example, benefits associated with ~~B~~est ~~V~~alue ~~E~~mployment metrics as described under paragraph 3211(a).
  - (F) The utility shall propose a written bidding policy as part of its filing under paragraph 3605(a), including the assumptions, criteria, and models that will be used to solicit and evaluate bids in a fair and reasonable manner. The resource solicitation must comply with the applicable requirements set forth in rule 3211, and the utility shall also propose minimum bid qualification requirements for BVE metrics set forth at paragraph 3211(a), including the utility's proposed methodology for evaluating BVE metrics.
  - (G) Request for Proposals (RFPs).
    - (i) The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire resources pursuant to subparagraph 3605(g)(II). To minimize bidder exceptions and to enhance bid comparability, the utility shall include in its proposed RFP(s) a model contract.
    - (ii) The proposed RFP(s) shall include the bid evaluation criteria the utility

will use in ranking the bids received. The utility shall also include in its proposed RFP(s): details concerning its resource needs; reasonable estimates of transmission costs for resources located in different areas and connecting to the utility's transmission system pursuant to paragraph 3605(d), including a detailed description of how the costs of future transmission will apply to bid resources; 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; any physical and performance requirements for energy storage systems or instructions for bidders to explain characteristics of energy storage systems, including but not limited to discharge rates and durations, charging rates, response time, and cycling losses and limitations; methodologies or credit mechanisms to value energy storage services provided to the utility system; the utility's proposed model contract(s) for the acquisition of resources; proposed contract term lengths; discount rate; general planning assumptions; and, any other information necessary to implement a fair and reasonable bidding program.

- (iii) The utility shall request from bidders ~~the Best Value Employment metrics for each bid resource as required by paragraph 3211(a), and may reject bids that fail to provide such information, and shall set forth criteria for the review of such metrics, based on objective performance standards, to be applied in the evaluation and selection of bids in accordance with § 40-2-129, C.R.S.~~
- (iv) The utility's proposed model contract(s) for acquisition of resources shall also meet the requirements of paragraph 3211(b) for ESPW projects, to the extent applicable.
- (iv) When issuing its RFP, the utility shall provide potential bidders with 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 provided by the utility.

(III) Phase I decision.

- (A) 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 electric resource plan.
- (B) The Phase I decision approving or denying the electric resource plan shall address the contents of the utility's plan filed in accordance with paragraph 3605(a). If the record contains sufficient evidence, the Commission shall specifically approve or modify: the utility's assessment of need for additional resources in the resource acquisition period; the utility's plans for acquiring additional resources through an all-source competitive acquisition process or through an alternative acquisition process; and components of the utility's proposed RFP, such as the model contracts and the proposed evaluation criteria, including those related to BVE metrics pursuant to rule 3211.

- (C) The Phase I decision will set forth the information the utility shall provide in the ERP Implementation Report regarding potential resources, proposed utility-owned resources, and the modeling of portfolio combinations of resources to support the development of cost-effective resource plans.
  - (i) The Commission shall determine the cost of carbon dioxide emissions to assess the cost, benefit, and net present value of revenue requirements to be presented in the ERP Implementation Report.
  - (ii) In consideration of the base case portfolio of resources and alternative portfolios proposed by the utility, the Commission shall define the base case portfolio and alternative portfolios for modeling in Phase II.
  - (iii) The Commission may require the utility to provide information regarding alternative portfolios in addition to the base case portfolio and information regarding the cost, benefit, and net present value of revenue requirements of the alternative portfolios using different levels of costs for carbon dioxide.
  - (iv) In accordance with § 40-3.2-106(3), C.R.S., the Commission shall establish the relevant factors other than the cost of carbon dioxide emissions for consideration of the approval of the utility's electric resource plan.
- (D) The Phase I decision will establish the deadline for the utility to submit its ERP Implementation Report.
- (E) If the Commission declines to approve a utility's electric resource plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 90 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission and shall provide the amended plan to all parties who participated in the application proceeding concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.

(h) Phase II.

- (I) ERP Implementation Report.
  - (A) On or before the deadline established by the Commission, the utility shall file a report with the Commission presenting cost-effective resource plans in accordance with the Commission's Phase I decision. The utility shall identify its preferred cost-effective resource plan.
    - (i) The utility shall apply the cost of carbon dioxide emissions to all existing and new utility resources in its modeling of the costs and benefits of all resource plans as required by the Commission's Phase I decision.
    - (ii) The utility shall present a calculation of the net present value of revenue



requirement for each portfolio required by the Phase I decision, including the defined base case portfolio. The utility shall present the net present value of revenue requirement for each existing and new utility resource included in the portfolio, as well as the total cost of carbon dioxide emissions of the total portfolio, calculated using the cost of carbon set forth in the Phase I decision and calculated without using the cost of carbon dioxide emissions. The utility also shall present, for each portfolio, the net present value calculation of the total cost of carbon dioxide emissions calculated by multiplying the total emissions of that portfolio by the cost of carbon dioxide.

- (iii) The utility shall provide the Commission with the ~~B~~best ~~V~~value ~~E~~employment metrics information provided by bidders as set forth in paragraph 3211(a). Additionally, the utility shall provide a composite score of BVE metrics for each of the cost-effective resource plans and must also identify the number of bids in each such plan that scored in the lowest quartile for BVE metrics.
  - (B) Within 45 days after the filing of the utility's ERP Implementation Report, the parties in the electric resource plan proceeding may file comments on the utility's report.
  - (C) Within 60 days after the filing of the utility's ERP Implementation Report, the utility may file comments responding to the parties' comments.
- (II) Phase II decision.
- (A) Within 90 days after the receipt of the utility's ERP Implementation Report under subparagraph 3605(h)(I), 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.
  - (B) In accordance with §§ 40-2-123 and 40-2-124, C.R.S., the Commission shall consider renewable energy resources, resources that produce minimal emissions or minimal environmental impact, energy-efficient technologies, and resources that affect employment and 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.
  - (C) In accordance with § 40-2-129, C.R.S., the Commission shall ~~determine: whether the utility has provided best value employment metrics; whether the utility has certified compliance with the objective standards for the review of such best value employment metrics as set forth in the RFP approved in the Phase I decision; and whether the utility has agreed to use a project labor agreement for the construction or expansion of a generating facility.~~ also consider the positive impacts of the final cost-effective resource plan on the long-term economic viability of Colorado communities and explain how BVE metrics as detailed in

rule 3211 and its Phase I decision were considered in the selection of the final cost-effective resource plan. The Commission shall not approve any acquisition that fails to provide information as required by rule 3211 and the Commission's Phase I decision.

- (D) In accordance with § 40-2-134, C.R.S., the Commission shall determine whether the final cost-effective resource plan meets the energy policy goals of Colorado.
  - (E) In accordance with § 40-3.2-106(3), C.R.S., the Commission shall consider the net present value of the cost of carbon dioxide emissions, the net present value of revenue requirements of the cost-effective resource plan, and other relevant factors as determined by the Commission in its Phase I decision.
- (III) Upon completion of Phase II, the utility shall file a proposal that addresses the public release of all confidential and highly confidential information related to bids for potential resources and resources the utility proposed to build and own. At a minimum the utility shall address the public release of highly confidential and confidential information in its ERP Implementation Report and all documents related to that report filed by the utility and the parties. The utility shall file its proposal in the plan proceeding within 14 months after the receipt of bids to its RFP(s). Parties will have 30 calendar days after the utility files its proposal to file responses. The utility then may reply to any responses filed within ten calendar days. The Commission shall issue an order specifying to the utility and other parties the documents that shall be refiled as public information.
- (IV) Upon completion of Phase II, the utility shall post on its website the following information from all bids and utility proposals: bidder name; bid price and utility cost, stated in terms that allow reasonable comparison of the bids with utility proposals; generation technology type; size of facility; contract duration or expected useful life of facility for utility proposals; and whether the proposed power purchase contract includes an option for the utility to purchase the facility during or at the end of the contract term.
- (i) Resource acquisitions not requiring interim or amended plans. The following resources need not be addressed by an interim or amended electric resource plan subsequent to Commission approval of a plan filed pursuant to paragraph 3605(a):
- (I) emergency maintenance or repairs made to utility-owned generation and energy storage facilities;
  - (II) capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than 20 MW;
  - (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 20 MW of capacity;
  - (IV) improvements or modifications to existing utility generation and energy storage facilities that change the production capability of the generation facility site in question, by not more than 20 MW, 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; and

- (V) 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 20 MW of capacity to the utility's system, and is cost effective in comparison to other supply-side alternatives available to the utility.

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[indicates omission of unaffected rules]

**3611. Utility Plan for Meeting the Resource Need.**

- (a) It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. The competitive bid process should afford all resources an opportunity to bid, and all new utility resources will be compared in order to determine a cost-effective resource plan (i.e., an all-source solicitation).
- (b) Notwithstanding the Commission's preference for all-source bidding for the acquisition of all new utility resources under these rules, the utility may propose in its filing under rule 3603, an alternative plan for acquiring the resources to meet the need identified in rule 3610. The utility shall specify the portion of the resource need that it intends to meet through an all-source competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.
- (c) If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire and the reason the specific resource(s) should not be acquired through an all-source competitive acquisition process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition.
- (d) Although the utility may propose a method for acquiring new utility resources other than all-source competitive bidding, as a prerequisite, the utility shall nonetheless include in its plan filed under rule 3603 the necessary bid policies, RFPs, and model contracts for common supply-side resources and energy storage systems necessary to satisfy the resource need identified under rule 3610 exclusively through all-source competitive bidding.
- (e) In the event that the utility proposes an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall file, simultaneously with its plan submitted under rule 3603, an application for a CPCN for such new resource. The Commission may consolidate, in accordance with the Commission's Rules of Practice and Procedure, the proceeding addressing that application for a CPCN with the resource planning proceeding. The utility shall provide a detailed estimate of the cost of the proposed facility to be constructed and information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate those alternatives.
- (f) The utility may participate in a competitive resource acquisition process by proposing the development of a new utility resource that the utility shall own as a rate base investment. The utility shall provide sufficient cost information in support of its proposal such that the

Commission can reasonably compare the utility's proposal to alternative bids. In the event a utility proposes a rate base investment, the utility shall also propose how it intends to compare the utility rate based proposal(s) with non-utility bids. The Commission may also address the regulatory treatment of such costs with respect to future recovery.

- (g) Each utility shall propose a written bidding policy as part of its filing under rule 3603, including the assumptions, criteria, and models that will be used to solicit and evaluate generation facility and energy storage system bids in a fair and reasonable manner. The utility shall specify the competitive acquisition procedures that it intends to use to obtain resources under the utility's plan. The utility shall also propose, and other interested parties may provide input as part of the resource plan proceeding, criteria for evaluating the costs and benefits of resources such as the valuation of emissions and non-energy benefits. Finally, resource solicitations must comply with the applicable requirements set forth in rule 3211, and the utility shall also propose minimum bid qualification requirements for BVE metrics set forth at paragraph 3211(a), including the utility's proposed methodology for evaluating BVE metrics.
- (h) In the event that the utility proposes to acquire specific resources through an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall provide the Commission with BVE metrics for each new or expanded resource, as detailed in paragraph 3211(a), the following best value employment metric information regarding each 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.~~

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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 notice in writing by e-mail 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, and, if not advanced, the reasons why the utility will not further evaluate the bid using computer-based modeling. If, after the utility issues notice to an owner or developer that the potential resource was not advanced to computer-based modeling, the utility subsequently advances that potential resource to computer-based modeling, the utility shall provide notice in writing by e-mail 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-based modeling.

- (b) For bids advanced to computer-based modeling, the utility shall, contemporaneously with the notification in paragraph 3613(a), also provide to the owner or developer the modeling inputs and assumptions that reasonably relate to that potential resource or to the transmission of electricity from that facility to the utility. The utility shall provide such information so that modeling errors or omissions may be corrected before the competitive acquisition process is completed. Such information shall explain to the owner or developer how its facility will be represented in the computer-based modeling and what costs, in addition to the bid information, will be assumed with respect to the potential resource. In the event that this information contains confidential or highly confidential information, the owner or developer shall execute an appropriate nondisclosure agreement prior to receiving this information.
- (c) Within seven calendar days after receiving the modeling inputs and assumptions from the utility pursuant to paragraph 3613(b), the owner or developer of a potential resource shall notify the utility in writing by electronic mail the specific details of any potential dispute regarding these modeling inputs and assumptions. 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 within three calendar days, the utility shall immediately notify the Commission with a filing in the resource plan proceeding. 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, within one business day of the utility's filing of its notice of dispute to the Commission, for the limited purpose of resolving the disputed modeling inputs and assumptions related to the potential resource. An Administrative Law Judge (ALJ) will expeditiously schedule a technical conference at which the utility and the owner or developer shall present their dispute for resolution. The ALJ will enter an interim order determining whether corrections to the modeling inputs and assumptions are necessary. If the ALJ determines that corrections to the modeling inputs and assumptions are necessary, the utility shall, within three business days of the issuance of the ALJ's interim decision, provide the corrected information to both the owner or developer and the independent evaluator. In its report submitted under paragraph 3613(d), the utility shall also confirm by performing additional modeling as necessary, that the potential resource is fairly and accurately represented.
- (d) 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, energy storage systems, 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 ~~B~~best ~~V~~value ~~E~~employment metrics information provided by bidders under rule 3616 and by the utility pursuant to rule 3611. Additionally, the utility's report must include a composite score of BVE metrics for each of the cost-effective resource plans and must also identify the number of bids in each such plan that scored in the lowest quartile for BVE metrics.
- (e) Within 30 days after the filing of the utility's 120-day report under paragraph 3613(d), the independent evaluator shall separately file a report that contains the independent evaluator's

analysis of whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. The independent evaluator shall provide confidential versions of these reports to Commission staff and the UCA.

- (f) Within 45 days after the filing of the utility's 120-day report under paragraph 3613(d), the parties in the resource plan proceeding may file comments on the utility's report and the independent evaluator's report.
- (g) Within 60 days after the filing of the utility's 120-day report under paragraph 3613(d), the utility may file comments responding to the independent evaluator's report and the parties' comments.
- (h) Within 90 days after the receipt of the utility's 120-day report under paragraph 3613(d), 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 CPCNs provided in paragraph 3611(e)), as necessary. In rendering the decision on the final cost-effective resource plan, the Commission shall:
  - (I) 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;
  - (II) ~~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; and energy-efficient technologies, in accordance with §§ 40-2-123, 40-2-124, and 40-3.2-104, C.R.S.; and resources that affect employment and the long-term economic viability of Colorado communities.~~
  - (III) consider the impacts of the final cost-effective resource plan on the long-term economic viability of Colorado communities and explain how labor requirements as detailed in rule 3211 and its Phase I decision were considered in its selection of the final cost-effective resource plan, in accordance with § 40-2-129, C.R.S.; and ~~The Commission shall further~~
  - (IV) consider resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.
- (i) ~~Within 90 days of issuance of a final decision approving the utility's plan, the utility shall submit to CDLE's Division of Labor Standards and Statistics a list of projects that are ESPW projects. This list should also be contemporaneously filed with the Commission on an informational basis.~~
- (j) The utility must complete the competitive acquisition process by executing contracts for potential resources within 18 months after the utility's receipt of bids in its competitive acquisition process. The utility may file a motion in the resource plan proceeding requesting to extend this deadline for good cause. The utility must execute final contracts for the potential resources prior to the completion of the competitive acquisition process to receive the presumption of prudence afforded by paragraph 3617(d).
- (k) Upon completion of the competitive acquisition process pursuant to paragraph 3613(i), and

consistent with the subsequent requirement for website posting of bids and utility proposals as required in paragraph 3613(k), protected information that was filed in the resource plan proceeding will be refiled as non-confidential or public information as specified in the Commission order described below. To satisfy this requirement the utility shall file a proposal that addresses the public release of all confidential and highly confidential information related to bids for potential resources and resources the utility proposed to build and own as a rate base investment. At a minimum the utility shall address its 120-day report in paragraph 3613(d), the independent evaluator's report in paragraph 3613(e), and all documents related to these reports filed by the utility, parties, or the independent evaluator. The utility shall file its proposal in the resource plan proceeding within 14 months after the receipt of bids in its competitive acquisition process. Parties will have 30 calendar days after the utility files its proposal to file responses. The utility then may reply to any responses filed within ten calendar days. The Commission shall issue an order specifying to the utility and other parties the documents that shall be refiled as public information.

- (~~l~~k) Upon completion of the competitive acquisition process under paragraph 3613(i), the utility shall post on its website the following information from all bids and utility proposals: bidder name; bid price and utility cost, stated in terms that allow reasonable comparison of the bids with utility proposals; generation technology type; size of facility; contract duration or expected useful life of facility for utility proposals; and whether the proposed power purchase contract includes an option for the utility to purchase the facility during or at the end of the contract term.

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[indicates omission of unaffected rules]

### **3616. 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, energy storage systems, 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): details concerning its resource needs; 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; 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; any physical and performance requirements for energy storage systems or instructions for bidders to explain characteristics of energy storage systems, including but not limited to discharge rates and durations, charging rates, response time, and cycling losses and limitations; and methodologies or credit mechanisms to value energy storage services provided to the utility system; the utility's proposed model contract(s) for the acquisition of resources; proposed contract term lengths; discount rate; general planning assumptions; and, any other information necessary to implement a fair and reasonable bidding program.



- (c) Labor requirements. The proposed RFP(s) shall meet the requirements of rule 3211 as it relates to BVE metrics and ESPW projects. The utility shall clearly indicate in the RFP that failure to provide required information, including documentation of an exemption, shall result in rejection of the bid. Material contract terms as required by paragraph 3211(b) shall not be considered negotiable by the utility or by bidders.
- ~~(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) When issuing its RFP, the utility shall provide potential bidders with 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 provided by the utility pursuant to paragraph 3613(b). The utility shall also provide potential bidders with an explanation of the process by which disputes regarding inputs and assumptions to computer-based modeling will be addressed by the Commission pursuant to paragraph 3613(b).
- (e) The utility shall require bidders to provide the contact name of the owner or developer designated to receive notice pursuant to paragraph 3613(a).
- (f) The utility shall inform bidders that certain bid information submitted in response to the RFP will be made available to the public through the posting of certain bid information on the utility's website upon the completion of the competitive acquisition process pursuant to paragraph 3613(k).

**3617. 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 the amended plan to all parties who participated in the application proceeding 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: the utility's assessment of need for additional resources in the resource acquisition period; the utility's plans for acquiring additional resources through an all-source competitive acquisition process or through an alternative acquisition process; components of the utility's proposed RFP, such as the model contracts and the proposed evaluation criteria, including minimum bid qualification requirements for BVE metrics set forth in paragraph 3211(a); and, the alternate scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, energy storage systems, or Section 123 resources. A Commission decision pursuant to paragraph 3613(h) 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.
  - (I) 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.

### **3618. Reports.**

- (a) Annual progress reports. The utility shall file with the Commission, and shall provide to all parties to the most recent resource planning proceeding, 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) for each project approved by the Commission pursuant to subparagraph 3605(h)(II)(C) and paragraph 3613(h), a report on BVE metrics compliance, unless the project(s) are exempt as detailed in rule 3211;
  - (VII) for each ESPW project approved by the Commission pursuant to paragraph 3613(h), the utility shall attest that it has submitted or caused to be submitted craft labor certification to CDLE's Division of Labor Standards and Statistics; and
  - (VIIII) 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: the identity of the bidders and the number of bids received; the quantity of MW offered by bidders; a breakdown of the number of bids and MW received by resource type; and, a description of the prices of the resources offered.
  - (II) 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 paragraphs 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.

**3619. 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 3617. 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.

**3620. – 3624. [Reserved]**

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[indicates omission of unaffected rules]

**RENEWABLE ENERGY STANDARD**

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[indicates omission of unaffected rules]

**3656. Resource Acquisition.**

- (a) It is the Commission's policy that utilities should meet the RES in the most cost-effective manner. To this end, the competitive acquisition provisions and exemptions of the Commission's Electric Resource Planning Rules shall apply to the acquisition of eligible energy resources by investor owned QRUs. Notwithstanding the exemptions in the Electric Resource Planning Rules, investor owned QRU shall acquire renewable distributed generation in accordance with a process set forth in a Commission-approved compliance plan or by separate application.
- (b) When evaluating resource acquisitions to comply with the RES, the Commission shall consider, on a qualitative basis, factors that affect employment and the long-term economic viability of Colorado communities, including ~~B~~best ~~V~~value ~~E~~employment metrics.
- (c) For new eligible energy resources that the investor owned QRU acquires from third-party suppliers, the investor owned QRU shall request from the suppliers and provide to the Commission ~~the following best value employment~~BVE metrics as set forth in paragraph 3211(a).  
Best Value Employment metrics are not required for retail renewable distributed generation as defined in paragraph 3652(ff).:-
  - ~~(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 the event that an investor owned QRU proposes in a resource acquisition plan to construct a

new eligible energy resource, the investor owned QRU shall provide the Commission with the same ~~B~~est ~~V~~alue ~~E~~mployment metrics as set forth in paragraph 3656(c).

- (e) The investor owned QRU may apply to the Commission, at any time, for review and approval of renewable energy credit contracts of any size, and renewable energy supply contracts with renewable distributed generation. The Commission will review and rule on these contracts within 90 days of their filing. The Commission may set the contract for expedited hearing, if appropriate, under the Commission's Rules of Practice and Procedure. If the QRU enters into a renewable energy supply contract or a renewable energy credit contract in a form substantially similar to the form of contract approved by the Commission as part of the investor owned QRU's compliance plan, that contract shall be deemed approved by the Commission under this rule.
- (f) Renewable energy supply contracts entered into after July 2, 2006:
  - (I) shall be for the acquisition of both renewable energy and the associated RECs;
  - (II) may reflect a fixed price, or a price that varies by year;
  - (III) shall have a minimum term of 20 years (or shorter at the sole discretion of the seller); and
  - (IV) shall require the seller to relinquish all REC ownership associated with contracted renewable energy to the buyer.
- (g) Renewable energy credit contracts entered into after July 2, 2006:
  - (I) shall be for the acquisition of RECs only;
  - (II) may reflect a fixed price, or a price that varies by time period; and
  - (III) shall have a minimum term of 20 years if the REC is from an on-site solar system, except that such contracts for on-site solar systems of between 100 KW and one MW may have a different term if mutually agreed to by the parties.
- (h) If the investor owned QRU intends to accept proposals as part of a competitive solicitation for eligible energy resources from the QRU or from an affiliate of the QRU, it shall include a written separation policy and name an independent auditor whom the utility proposes to hire to review and report to the Commission on the fairness of the competitive acquisition process. The independent auditor shall have at least five years' experience conducting and/or reviewing the conduct of competitive electric utility resource acquisition, including computerized portfolio costing analysis. The independent auditor shall be unaffiliated with the utility; and shall not, directly or indirectly, have benefited from employment or contracts with the utility in the preceding five years, except as an independent auditor under these rules. The independent auditor shall not participate in, or advise the utility with respect to, any decisions in the bid-solicitation or bid-evaluation process. The independent auditor shall conduct an audit of the utility's bid solicitation and evaluation process to determine whether it was conducted fairly. For purposes of such audit, the utility shall provide the independent auditor immediate and continuing access to all documents and data reviewed, used or produced by the utility in its bid solicitation and evaluation process. The utility shall make all its personnel, agents and contractors involved in the bid solicitation and evaluation available for interview by the auditor. The utility shall conduct any

additional modeling requested by the independent auditor to test the assumptions and results of the bid evaluation analyses. Within 60 days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. After the filing of the independent auditor's report, the utility, other bidders in the resource acquisition process and other interested parties shall be given the opportunity to review and comment on the independent auditor's report.

- (i) Responses to competitive solicitations shall be evaluated and ranked by the investor owned QRU.
  - (I) In addition to the cost of the eligible energy and RECs, the QRU may take into consideration the characteristics of the underlying eligible energy resource that may impact the ability of the bidder to fulfill the terms of the bid including, but not limited to project in-service date, resource reliability, viability, energy security benefits, amount of water used, fuel cost savings, environmental impacts including tradable emissions allowances savings, load reduction during higher cost hours, transmission capacity and scheduling, employment, the long-term economic viability of Colorado communities, ~~Best Value~~ employment metrics pursuant to paragraph 3211(a), and any other factor the investor owned QRU determines is relevant to the investor owned QRU's needs.
  - (II) Bids with prices that vary by year will be evaluated by discounting the yearly prices at the utility discount rate.
  - (III) An investor owned QRU is not required to accept any bid and may reject any and all bids offered. However, each solicitation shall culminate in a report detailing the outcome of the solicitation and identifying which bids were selected, which were rejected, and why.
  - (IV) For purposes of comparing bids for RECs only with bids for electricity and RECs, the investor owned QRU shall assign a value for the electricity and subtract this value from the electricity and RECs bid, and evaluate bids on the basis of RECs only. The investor owned QRU shall include, as part of its compliance plan, a description of its methodology and price(s) it intends to use for this evaluation.
- (j) Within 15 days of the due date for bids in a competitive solicitation, the investor owned QRU shall notify respondents as to whether their bid has met the bid submission criteria.
- (k) Upon ranking of eligible bids to a competitive solicitation, each investor owned QRU shall within 15 days indicate to all respondents with which proposals it intends to pursue a contract.
- (l) For eligible energy resources greater than 250 kW, the owner shall provide, at the QRU's request, real time electronic access to the QRU to system operation data. In the event that an eligible energy resource greater than 250 kW also collects meteorological data, the owner shall provide, at the QRU's request, real time electronic access to the QRU to such meteorological data.

\* \* \* \*

[indicates omission of unaffected rules]

**3976. Regulated Electric Utility Rule Violations, Civil Enforcement, and Civil Penalties.**

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

| <b>Citation</b>      | <b>Description</b>                                                          | <b>Maximum Penalty Per Violation</b> |
|----------------------|-----------------------------------------------------------------------------|--------------------------------------|
|                      | Articles 1-7 of Title 40, C.R.S.                                            | \$2000                               |
|                      | Commission Order                                                            | \$2000                               |
| Rule 3005(a)-(c);(f) | Records and Record Retention                                                | \$2000                               |
| Rule 3027(a)         | Collection and Use of Customer Data                                         | \$1000                               |
| Rule 3027(b)         | Disclosure of Customer Data                                                 | \$2000                               |
| Rule 3027(c)         | Tariff                                                                      | \$1000                               |
| Rule 3027(d)         | Disclosure of Customer Data                                                 | \$1000                               |
| Rule 3028(a)         | Customer Notice                                                             | \$1000                               |
| Rule 3029(a),(b)     | Consent Form                                                                | \$1000                               |
| Rule 3030(a)         | Disclosure of Customer Data                                                 | \$2000                               |
| Rule 3030(b)         | Records                                                                     | \$1000                               |
| Rule 3031(a)         | Disclosure of Customer Data                                                 | \$2000                               |
| Rule 3031(b)         | Records                                                                     | \$1000                               |
| Rule 3032(a)         | Disclosure of Customer Data                                                 | \$2000                               |
| Rule 3032(c) and (d) | Consent and Records                                                         | \$1000                               |
| Rule 3033(a)         | Disclosure of Aggregated Data                                               | \$2000                               |
| Rule 3033(d)         | Tariff                                                                      | \$1000                               |
| Rule 3100(a)         | Obtaining a Certificate of Public Convenience and Necessity for a Franchise | \$2000                               |

|                      |                                                                                                                                    |        |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------|--------|
| Rule 3101(a)         | Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to Operate in a Service Territory            | \$2000 |
| Rule 3102(a)         | Obtaining a Certificate of Public Convenience and Necessity for Facilities                                                         | \$2000 |
| Rule 3103(a),(c),(d) | Amending a Certificate of Public Necessity for Changes in Service Territory or Facilities                                          | \$2000 |
| Rule 3108(a),(c)     | Keeping a Current Tariff on File with the Commission                                                                               | \$2000 |
| Rule 3109            | Filing a New or Changed Tariff with the Commission                                                                                 | \$2000 |
| Rule 3110(b),(c)     | Filing an Advice Letter to Implement a Tariff Change                                                                               | \$2000 |
| Rule 3200(a),(b)     | Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards | \$2000 |
| Rule 3204            | Reporting Incidents Resulting in Death, Serious Injury, or Significant Property Damage                                             | \$2000 |
| Rule 3210            | Line Extensions                                                                                                                    | \$2000 |
| Rule 3251            | Reporting Major Events                                                                                                             | \$2000 |
| Rule 3252            | Filing a Report on a Major Event with the Commission                                                                               | \$2000 |
| Rule 3303(a)-(j)     | Meter Testing                                                                                                                      | \$2000 |
| Rule 3306            | Record Retention of Tests and Meters                                                                                               | \$2000 |
| Rule 3309            | Provision of Written Documentation of Readings and Identification of When Meters Will be Read                                      | \$2000 |
| Rule 3401            | Billing Information, Procedures, and Requirements                                                                                  | \$2000 |
| Rule 3603            | Resource Plan Filing Requirements                                                                                                  | \$2000 |
| Rule 3654(a),(d)     | Renewable Energy Standards                                                                                                         | \$2000 |

|                                         |                                                                         |        |
|-----------------------------------------|-------------------------------------------------------------------------|--------|
| Rule 3657(a)                            | QRU Compliance Plans                                                    | \$2000 |
| Rule 3662                               | Annual Compliance Reports                                               | \$2000 |
| Rule 3803(c)                            | Master Meter Exemption Requirements                                     | \$2000 |
| Rule 3004(b)-(f)                        | Disputes and Informal Complaints                                        | \$1000 |
| Rule 3202(a),(b),(f),(g)                | Maintaining a Standard Voltage and Frequency                            | \$1000 |
| Rule 3203(a),(b)                        | Trouble Report Response, Interruptions and Curtailments of Service      | \$1000 |
| Rule 3405                               | Provision of Service, Rate, and Usage Information to Customers          | \$1000 |
| Rule 3406                               | Provision of Source Information to Customers                            | \$1000 |
| Rule 3253                               | Filing a Supplemental Report on a Major Event with the Commission       | \$1000 |
| Rule 3208(a)-(c)                        | Poles                                                                   | \$500  |
| Rule 3403(a)-(q);(s)                    | Applications for Service, Customer Deposits, and Third Party Guarantees | \$500  |
| Rule 3658                               | Standard Rebate Offer                                                   | \$500  |
| Rule 3006(a),(b),(e)-(m)                | Annual Reporting Requirements                                           | \$100  |
| Rule 3304                               | Scheduled Meter Testing                                                 | \$100  |
| Rule 3305                               | Meter Testing Upon Request                                              | \$100  |
| Rule 3402(a),(c),(d)                    | Meter and Billing Error Adjustments                                     | \$100  |
| Rule 3404(a)-(h)                        | Availability of Installation Payments to Customers                      | \$1000 |
| Rule 3407                               | Discontinuance of Service                                               | \$2000 |
| Rule 3408(a)-(g);(i)                    | Notice of Discontinuation of Service                                    | \$2000 |
| Rule 3409                               | Restoration of Service                                                  | \$2000 |
| Rule 3411(c)(IV),(d)(I),<br>(d)(II),(e) | Low-Income Energy Assistance Act                                        | \$100  |



|           |                                              |       |
|-----------|----------------------------------------------|-------|
| Rule 3618 | Filing of Electric Resource Planning Reports | \$100 |
|-----------|----------------------------------------------|-------|

**3977. – 3999. [Reserved].**