

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23R-0069E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION’S RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, TO ADDRESS THE CONSTRUCTION OF NEW POWERLINE TRAILS PURSUANT TO HOUSE BILL 22-1104.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: February 15, 2023
Adopted Date: February 1, 2023

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission issues this Notice of Proposed Rulemaking (NOPR) to consider amendments to certain of the Commission’s Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3, in order to implement the recent

statutory changes enacted in House Bill (HB) 22-1104, effective April 13, 2022, adding a requirement that the Commission amend its rules requiring ten-year transmission plan filings to include information regarding the potential for powerline trails.

2. Through this rulemaking, the Commission satisfies the legislature's requirement, codified at § 40-2-126(6), C.R.S., that the Commission amend its rules requiring ten-year transmission plan filings to include information regarding the potential for powerline trails.

3. The statutory authority for the proposed rules is found primarily at § 40-1-103.5, C.R.S. (requiring the Commission to promulgate certain implementing rules) and § 40-2-108, C.R.S. (requiring the Commission generally to promulgate rules necessary to administer and enforce Title 40).

4. Advisors have contacted each of the known stakeholders seeking their input and comments from prior to introducing a formal notice of proposed rulemaking. The known stakeholders include Bicycle Colorado (BC), Public Service Company of Colorado, Southwest Energy Efficiency Project (SWEEP), and Tri-State Generation & Transmission (Tri-Sate).

5. Written comments on the proposed rule changes were requested by September 30, 2022. BC and SWEEP provided combined comments. Tri-State provided notification of a typographical error.

6. These comments and correction have been included in the attached redline rules.

7. The Commission will hold a remote public comment hearing on the proposed rules at 11:00 a.m. on March 27, 2023.

8. The proposed rule changes are set forth in legislative (*i.e.*, ~~strikeout and underline~~) format in Attachment A to this Decision, and in final format in Attachment B to this Decision.

B. House Bill 22-1104

9. On April 13, 2022, Governor Jared Polis signed HB 22-1104, which enacts requirements for electric transmission providers to develop, maintain and distribute informational resources to encourage, facilitate, and streamline the construction of new powerline trails in transmission corridors that are suitable for the construction and maintenance of a powerline trail. The minimum requirements for these informational resources are detailed in § 33-45-103(2), C.R.S.

10. Section 5 of the bill directs the Commission to amend its rules requiring ten-year transmission plans to: “consider and address plans for the construction of new powerline trails in coordination with applicable local governments in each two-year update to a ten-year plan;” and to demonstrate compliance with § 33-45-103(2), C.R.S.

11. Considering that this is likely a non-controversial requirement to incorporate the new requirements in the ten-year planning rules, the Commission finds the best path forward to meet these objectives is to open this relatively narrow rulemaking for the limited purpose of adopting rules to implement the statutory changes enacted in HB 22-1104.

12. An overview of the changes proposed by the Commission fall into two general categories, described below. For each category, we identify and explain the proposed rule change, provide analysis of the change, and, as applicable, pose questions for comments by rulemaking participants.

1. Revisions to Electric Rule Definitions

13. The Commission's Rules Regulating Electric Utilities, 4 CCR 723-3, include definitions that apply throughout the electric rules. The definitions are found in Rule 3001 of the Commission's Rules Regulating Electric Utilities, 4 CCR 723-3.

14. The specific changes proposed include the addition of definitions for "powerline trail" and "transmission corridor." The definitions reflect the definitions provided in § 33-45-102, C.R.S.

2. Revisions to Existing Ten-Year Transmission Planning Rules

15. The Commission's rules requiring the filing of ten-year transmission plans includes a list of specific information that shall be provided. The definitions are found in Rule 3627(c) of the Commission's Rules Regulating Electric Utilities, 4 CCR 723-3.

16. We propose to add three new requirements to Rule 3627(c) to implement the new requirements enacted in HB 22-1104. Each ten-year transmission plan shall contain the information described in new subparagraphs (X) through (XII):

- (X) A list of planned transmission projects that have the potential for the construction of a powerline trail including those where the transmission line will be extended by more than one mile or where the transmission line capacity will be increased by more than ten percent.
- (XI) A list of planned transmission projects where powerline trails are actively being considered, pursued, or developed.
- (XII) An active hyperlink or citation to where the powerline trail information required pursuant to § 33-45-103(2), C.R.S., may be found.

17. The Commission proposes this straightforward rule change as an initial effort to implement the changes in HB 22-1104.

18. The Commission invites comment from participants on additions to this rule to specify the type of information to be included in the utility's required ten-year transmission plans as it relates to powerline trails.

C. Conclusion

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

20. The proposed rules in legislative (*i.e.*, ~~strikeout~~/underline) format (Attachment A) and final format (Attachment B) are available through the Commission's E-Filings system at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=23R-0069E.

21. Additional written comments on the proposed rule changes are requested by March 13, 2023. Any person wishing to file comments responding to the initial comments is requested to file such comments by March 20, 2023. These deadlines are set so that the comments and responses may be considered at the public hearing, nonetheless, persons may file written comments into this Proceeding at any time. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

22. The Commission prefers comments be filed using the Commission's E-Filings System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> under this Proceeding No.

23R-0069E. Written comments will be accepted and should be addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) shall be filed with the Colorado Secretary of State for publication in the February 25, 2023, edition of *The Colorado Register*.

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

DATE March 27, 2023

TIME: 11:00 a.m.

PLACE: By video conference using Zoom at a link in the calendar of events on the Commission's website:

<https://puc.colorado.gov/>

3. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

4. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than March 13, 2023, and that any pre-filed comments responsive to the initial comments be submitted no later than March 20, 2023. The Commission will consider all submissions, whether oral or written. The Commission prefers that comments be filed into this Proceeding using the Commission's E-Filings System at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 1, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners

COMMISSIONER JOHN GAVAN'S
TERM EXPIRED FEBRUARY 3, 2023.