

Decision No. C23-0143

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0093E

IN THE MATTER OF DIRECTING PUBLIC SERVICE COMPANY OF COLORADO TO FILE INTERCONNECTION TARIFFS PURSUANT TO PARAGRAPH 3853(P) OF THE COMMISSION'S RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS (CCR) 723-3.

**COMMISSION DECISION
OPENING PROCEEDING AND REQUIRING FILING OF
INTERCONNECTION TARIFFS PURSUANT TO
PARAGRAPH 3853(P) OF THE COMMISSION'S
INTERCONNECTION RULES**

Mailed Date: February 28, 2023

Adopted Date: February 22, 2023

I. BY THE COMMISSION

A. Statement

1. On July 30, 2021, the Commission's modified rules governing the interconnection of distributed energy resources (DERs) and other small generation facilities took effect pursuant to Colorado statutes. The modified rules, found within its Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3, were promulgated in Proceeding No. 19R-0654E through Decision Nos. R20-0773, C21-0183, and C21-0298.

2. Paragraph 3853(p) of the Commission's Interconnection Rules, 4 CCR 723-3-3850 through 3859, requires tariffs that set forth timelines and fees associated with the interconnection of DERs.

3. By this Decision, the Commission opens this Proceeding to require Public Service Company of Colorado (Public Service or the Company) to file interconnection tariffs pursuant to 4 CCR 723-3-3853(p). We further direct Public Service to include provisions in its interconnection tariffs that afford interconnection customers refunds for all or portions of the fees charged for interconnections in the event the Company fails to comply with the timelines set forth in the Company's interconnection tariff. We also direct Public Service to propose an overarching performance incentive mechanism (PIM) governing its interconnection processes in the furtherance of state policies that advance the installation and use DERs by Public Service's customers.

B. Discussion

1. Commission Rules Addressing Interconnection Tariffs

4. Paragraph 3853(p) causes the Public Service's interconnection procedures to be implemented by tariff. Subparagraph 3853(p)(I) requires the Company to have on file with the Commission an interconnection tariff that sets forth fees, deadlines, and interconnection procedures. The interconnection tariff must comply with the Interconnection Rules.

5. Subparagraph 3853(p)(II) requires the interconnection tariff to be filed with an advice letter, specifying that the tariffs filed by a utility such as Public Service may be set for hearing and suspended in accordance with the Commission's Rules of Practice and Procedure and applicable statutes.

6. Subparagraph 3853(p)(III) lists specific provisions that must be included in the interconnection tariffs. The tariffs must include timelines for: pre-application procedures in paragraph 3853(a); interconnection requests governed by paragraph 3853(d); interconnection

agreements, the standard contracts signed by Public Service and the interconnecting customer with DER,¹ addressed in paragraph 3853(f); general Level 1 interconnection procedures for small DER interconnections set forth in paragraph 3854(a); initial reviews for larger Level 2 interconnections per paragraph 3855(b); Level 2 interconnection customer option meetings governed by paragraph 3855(c); Level 2 supplemental reviews under paragraph 3855(d); and the Level 3 study processes for the largest interconnections—such as for community solar gardens (CSGs), for example—in Rule 3856, including the scoping meeting defined in paragraph 3856(a), the feasibility studies in paragraph 3856(b), the system impact study in paragraph 3856(c), and the facilities study in paragraph 3856(d). The tariffs must also set forth any fees, including those associated with the interconnection milestones listed previously. Subparagraph 3853(p)(III)(B)(i) states that in the advice letter tariff filing, the utility shall demonstrate that any fee in the tariff is cost-based.

7. In Decision No. R20-0773, Administrative Law Judge (ALJ) Steven H. Denman explains the purpose of paragraph 3853(p) of the Interconnection Rules and why the adoption of the rule is neither unusual nor unreasonable because it sets forth the general criteria and requirements to be addressed in interconnection tariffs and requires that utilities file tariffs complying with the Interconnection Rules.² ALJ Denman goes on to explain that if the Commission finds that a utility's interconnection tariff is improper and fails to comply with the Interconnections Rules, the Commission could set the tariff for hearing and suspend its effectiveness, and, as a result of the hearing process, a just and reasonable interconnection tariff would be established. He concludes that this process for the Commission to determine just and

¹ Public Service filed its 30-plus page “Distributed Energy Resource Interconnection Agreement” in Volume 3 of its 2022-2025 Renewable Energy Standard Plan in Proceeding No. 21A-0625EG. Hearing Exhibit 101, Ihle Direct Testimony, Attachment JWI-3, 2022-2024 Renewable Energy Standard Plan, Volume 3, pp. 152-180.

² Decision No. R20-0773, issued November 5, 2020, Proceeding No. 19R-0654E, ¶ 84, pp. 26-27.

reasonable tariffs is normal under Colorado's file-and-suspend scheme for regulating public utility rates, charges, classifications, practices, rules, and regulations. He further states that as an independent regulatory agency, the Commission is "quite experienced in and accustomed to setting utility filings for hearings when necessary and then rendering a fair decision that adjudicates just and reasonable results."³

8. ALJ Denman notes that during the rulemaking in Proceeding No. 19R-0654E, the Colorado Solar and Storage Association (COSSA), the Solar Energy Industries Association (SEIA), and Public Service opposed the adoption of paragraph 3853(p). COSSA and SEIA suggested limiting interconnection tariffs to cover only utilities' fees, costs, or charges associated with interconnection applications or other procedures, stressing, however, that any utility specific documents should not circumvent the timelines or procedures in the Interconnection Rules.⁴ Public Service was concerned that proposed Rule 3853(p) would elevate into Commission rules program elements "that are now more appropriately handled in program policies and guidelines."⁵

9. In its decision on exceptions to Decision No. R20-0773, the Commission upheld the adoption of paragraph 3853(p) and further added subparagraph 3853(p)(III)(B)(i) that require a utility such as Public Service to demonstrate that any fee established in its interconnection tariff is cost-based.⁶ The Commission further clarified that all potential fees must be listed in the Company's interconnection tariffs.⁷ The Commission's subsequent decision addressing applications for rehearing, reargument, or reconsideration caused no further modifications to

³ Decision No. R20-0773, issued November 5, 2020, Proceeding No. 19R-0654E, ¶ 85, p. 27.

⁴ Decision No. R20-0773, issued November 5, 2020, Proceeding No. 19R-0654E, ¶ 78, p. 25.

⁵ Decision No. R20-0773, issued November 5, 2020, Proceeding No. 19R-0654E, ¶ 79, p. 25.

⁶ Decision No. C21-0183, issued March 30, 2021, Proceeding No. 19R-0654E, ¶ 76, pp. 25-26.

⁷ Decision No. C21-0183, issued March 30, 2021, Proceeding No. 19R-0654E, ¶ 77, p. 26.

paragraph 3853(p).⁸ The rules attached to Decision No. C21-0298 became the Interconnection Rules effective July 30, 2021.

2. Interconnection Investigation

10. On July 12, 2021, the Commission issued Decision No. C21-0399 opening an investigation into the interconnection of DERs in Proceeding No. 21I-0321E. The Commission stated that an investigation conducted by Staff of the Colorado Public Utilities Commission (Staff) into Colorado electric utility interconnection practices may provide information helpful to improving the interconnection process for DERs.

11. The Commission stated that, as part of this investigation, the collection of comments on certain topics from entities with direct experience interconnecting to Colorado's electric grid, such as comments from generation owners, developers, and installers, may provide more candid answers from the entities that routinely work with regulated electric utilities to interconnect. The Commission further stated that is also interested in investigating the possible use of performance incentive mechanisms (PIMS) and performance-based regulation (PBR) to improve the interconnection process for DERs.

12. Staff filed a report on its findings on December 29, 2022. With respect to Public Service, Staff drew the following conclusions in its report:

- Public Service's stakeholder process for interconnections can be improved,
- Changing staff and attrition causes interconnection disruptions,
- The Company's success rate of interconnection applications can be much better, and

⁸ Decision No. C21-0298, issued May 17, 2021, Proceeding No. 19R-0654E.

- A PIM/PBR is not recommended for interconnections at this time.

13. Following the filing of Staff's report, Public Service submitted additional comments on August 22, 2022, stating that it sought increased transparency into the Company's interconnection processes. Public Service stated that in its Rebuttal Testimony in Proceeding No. 21A-0625EG, the 2022-2025 Renewable Energy Standard Plan, the Company proposed significant process changes to provide increased certainty around interconnection costs and viability for Community Solar Gardens (CSGs). Public Service further stated that the Company also planned to address many concerns related to hosting capacity analysis and data provision through its Distribution System Planning Application in Proceeding No. 22A-0189E. Public Service was "optimistic that these changes will improve the likelihood of viable, well-vetted projects being built expediently, while simultaneously deterring speculative projects." Public Service also stated that the additional milestone tracking in its new DER Interconnection Application Portal would be critical to identifying where delays are occurring related to both Company and DER developer actions.⁹

14. Notwithstanding Public Service's stated efforts, the Commission received numerous comments since October 2022 from DER installers and customers seeking to interconnect their DER onto Public Service's system. Many of these comments were recorded in Proceeding No. 21I-0321E. Most of the comments report delays in interconnecting customer DERs.

⁹ Comments of Public Service Company of Colorado, August 22, 2022, p. 2.

15. On February 14, 2023, Public Service filed additional comments in the investigatory proceeding. The Company repeated its assertion that the interconnection process is a detailed and nuanced process consisting of many steps that need to be taken in a coordinated fashion between the Company and DER installers. The Company further stated that “meeting our customers’ expectations for interconnection equally relies upon solar industry partners understanding and executing on their portion of the process.” The Company asserts that many DER interconnections appear to be delayed because they are “pending installer action,” alleging that the DER installer has failed to complete their required actions to advance to the next phase of the interconnection application.¹⁰

16. In its February 14, 2023 comments, Public Service acknowledges a significant backlog of more than 4,000 interconnection applications awaiting a “completeness review” as of early January 2023. The Company states that it experienced an unanticipated influx of applications after the passing of the Inflation Reduction Act on August 16, 2022. Public Service also states that the Company rejected more than 4,000 applications (approximately 40 percent of all applications) submitted by DER installers since October 1, 2022 due to inaccurate or incomplete applications. Public Service also states that the Company has been resolving “bugs in the interconnection portal which launched in May.”¹¹

17. Public Service further states that the Company has accelerated working through the current backlog over the last several weeks. During the week of February 5, 2023, for instance, the Company conducted completeness reviews pursuant to paragraph 3853(d) on approximately 1,200 applications per week, an approximate 93 percent increase from the volume of completeness

¹⁰ Comments of Public Service Company of Colorado, February 14, 2023, p. 7.

¹¹ Comments of Public Service Company of Colorado, February 14, 2023, p. 2.

reviews processed in the beginning of January 2023. Public Service expects to be caught up with completeness reviews by the beginning of March of 2023.¹²

18. At the Commission's February 15, 2023 weekly business meeting, the Commission closed the investigation.

3. Public Service 2022-2025 Renewable Energy Compliance Plan

19. On December 20, 2021, Public Service filed an application for approval of its 2022 through 2025 Renewable Energy Compliance Plan. The application filing included no interconnection tariffs as required by paragraph 3853(p), and the Motion for Waivers and Variances filed with the application also made no reference to paragraph 3853(p).¹³

20. By Decision No. C22-0678, issued on November 3, 2022, the Commission granted the application, as modified by an Unopposed Comprehensive Settlement Agreement filed on September 1, 2022, and with further additions and clarifications set forth by the Commission in that decision.¹⁴ Section XV of the Unopposed Comprehensive Settlement Agreement addresses the interconnection issues raised and resolved by the parties. The settlement terms make no mention of interconnection tariffs as required by paragraph 3853(p). The agreement instead addresses interconnection agreements and interconnection applications for CSGs, as mentioned in the Company's August 22, 2022 comments filed in the investigation in Proceeding No. 21I-0-321E. The Unopposed Comprehensive Settlement Agreement also recommends that the

¹² Comments of Public Service Company of Colorado, February 14, 2023, p. 7.

¹³ On December 17, 2021, Black Hills Colorado Electric, LLC, the other investor-owned electric utility in Colorado, filed Advice Letter No. 819 in Proceeding No. 21AL-0617E with tariff sheets in compliance with paragraph 3853(p).

¹⁴ Staff and COSSA and SEIA are parties to the Unopposed Comprehensive Settlement Agreement.

Commission open a Notice of Proposed Rulemaking to address interconnection of CSGs and also to consider cluster studies in relationship to current Interconnection Rules.

4. Public Service's Inaugural Distribution System Plan

21. On May 2, 2022, Public Service filed an application for approval of its inaugural Distribution System Plan (DSP) as also mentioned in the Company's August 22, 2022 comments filed in the investigation in Proceeding No. 21I-0-321E.

22. By Decision No. R23-0080, issued on February 2, 2023, Hearing Commissioner Megan M. Gilman found that approval of the application, as modified by a comprehensive settlement agreement¹⁵ and a complementary joint stipulation, and as further modified by the recommended decision, is in the public interest.¹⁶

23. With respect to the interconnection of DERs, the settlement agreement states that Public Service agrees to establish a technical working group to address DER interconnection issues, including the ability to more timely complete interconnection requests.

24. Hearing Commissioner Gilman states in Decision No. R23-0080 that the record in Proceeding No. 22A-0189E raises concerns about the Company's timelines for processing different steps of DER interconnections. She concludes that while that proceeding may not be the proper venue, DER interconnections are important matter for the Commission to pursue to ensure that customers and companies requesting to interconnect to the Company's system encounter a

¹⁵ Staff and COSSA and SEIA are parties to the Settlement Agreement.

¹⁶ Unless exceptions are filed or the Commission timely stays the decision on its own motion, Decision No. R23-0080 will become the decision of the Commission on February 22, 2023.

process that is efficient, transparent and provides proper recourse when appropriate standards, including the Commission's own rules, are not met.¹⁷

25. Commissioner Gilman further directed Public Service to specifically address the effectiveness of the Company's web portal for advancing the integration of DERs and for the implementation of potential metrics, such as the number of interconnection applications that are being accepted versus rejected, streamlining of timelines for interconnection applications, etc.¹⁸

5. Public Service's Interconnection Technical Manual and Guidelines

26. As explained in its comments filed in Proceeding No 21I-0321E, Public Service's interconnection processes are electronically based and now centered around the DER Interconnection Application Portal. The Company's website for interconnections¹⁹ includes a link to the DER Interconnection Application Portal as well as links to various "General Resources," including a link to the Company's *Interconnection Requirements – DG Manual (10/28/2021)*, a document titled "Safety, Interference And Interconnection Guidelines for Cogenerators, Small Power Producers And Customer-Owned Generation" (Interconnection Requirements).²⁰

27. The Interconnection Requirements document states it is a revision completed on October 28, 2021 updated to comply with the Commission's modified Interconnection Rules. Specifically, the general introduction to the document explains:

The Colorado Public Utilities Commission (CPUC) 4 CCR 723-3 Rules 3850 – 3859 sets the process and timelines for an interconnection application, review, testing, and approval, see Section 13 links. This Manual, along with the tariffs and the Xcel Energy Standard for Electric

¹⁷ Decision No. R23-0080, issued February 2, 2023, Proceeding No. 22A-0189E, ¶ 79, pp. 22-23.

¹⁸ Decision No. R23-0080, issued February 2, 2023, Proceeding No. 22A-0189E, ¶ 78, p. 22.

¹⁹ <https://co.my.xcelenergy.com/s/renewable/developers/interconnection> accessed February 14, 2022.

²⁰ https://www.xcelenergy.com/staticfiles/xcelenergy/Working%20With%20Us/Renewable%20Developers/DG%20Tech%20Manual_10.28.21_Final.pdf accessed February 14, 2022.

Installation and Use, address this requirement. Company Tariff Sheets P1-P6 provide the Small Power Production and Cogeneration Facility Policy. Rules 3850 – 3859 (“Commission Interconnection Rules”) applies to all electrical resources regardless of energy source and include storage. These sources are distributed energy resources (DER) and are generally referred to in this manual as distributed generation (DG).

This Manual primarily addresses the technical requirements of interconnection but does provide some discussion, guidance, and additional information regarding the interconnection process. CPUC Rules 3850 - 3859 remain the final authority. The parties can mutually agree to deviations, time extensions, etc. from those stated in the rules and the Interconnection Manual. The rules provide for three levels of review complexity. Section 14 contains process flow charts to help the user understand the overall application, review, testing, and approval process of the three review levels as specified in the Commission Interconnection Rules . Unless specifically stated otherwise, the requirements in this document apply to continuous parallel operation of interconnected Customer generation.

This manual represents the Company requirements, tariffs, and CPUC rules as of the cover page date. The distributed generation industry and the associated rules and tariffs are changing faster than has historically been the case. All parties are on a learning curve on how to integrate higher DG penetrations. While periodic updates will be made to the manual, some variations will occur between updates and those tariffs, rules, etc. at the time of application will govern. [sic]²¹

28. Section 14 of the document provides process flow charts for principal interconnection procedures. The flow charts specify actions to be taken by Public Service and by the interconnection customer within specified time periods.²²

29. Section 15 of the document sets forth a fee schedule and a document check list. With respect to fees, the document states: “The Company will be filing revised tariffs reflecting a

²¹ Safety, Interference And Interconnection Guidelines for Cogenerators, Small Power Producers And Customer-Owned Generation, October 28, 2021, p. 3.

²² Safety, Interference And Interconnection Guidelines for Cogenerators, Small Power Producers And Customer-Owned Generation, October 28, 2021, pp. 42-48.

new fee schedule. Until this tariff filing is made and approved by the Commission, interconnections will be assessed the fees in the table below which leaves the fees unchanged.”²³

C. Findings and Conclusions

30. Public Service is a public utility in the State of Colorado and is subject to the jurisdiction of, and is regulated by, the Commission as provided under § 40-1-103(1)(a)(I), C.R.S. As relevant here, Public Service is engaged in the generation, purchase, transmission, distribution, and sale of electricity.

31. The Commission’s authority to approve Public Service’s tariffs and rates for service derives from Article XXV of the Colorado Constitution. The Commission is further charged with ensuring the provision of safe and reliable utility service at just and reasonable rates pursuant to §§ 40-3-101, 40-3-102, 40-3-111, and 40-6-111, C.R.S.

32. We join Public Service as indispensable party to this Proceeding.

33. The Commission finds good cause to open this Proceeding for the sole purpose of requiring Public Service to file interconnection tariffs pursuant to paragraph 3853(p) because the Company has not yet done so. We direct Public Service to file the tariffs in a new advice letter proceeding on not less than 30 days’ notice. The advice letter filing will be administered in accordance with the Commission’s Rules of Practice and Procedure, 4 CCR 723-1.

34. Section 40-2-135, C.R.S., enacted in 2019 pursuant to Senate Bill 19-236, states: “A retail electric utility customer is entitled to generate, consume, store, and export electricity produced from eligible energy resources to the electric grid through the use of customer-sited retail

²³ Safety, Interference And Interconnection Guidelines for Cogenerators, Small Power Producers And Customer-Owned Generation, October 28, 2021, p. 49.

distributed generation, as defined in section 40-2-124 (1)(a)(VIII), subject to reliability standards, interconnection rules, and procedures, as determined by the commission.” In light of this provision and other relevant statutory directives in § 40-2-124, C.R.S., we direct Public Service to include in its interconnection tariffs provisions that tie the Company’s performance in completing interconnections to financial incentives and penalties to ensure the efficient interconnection of DERs as a matter of state energy policy. Public Service shall include in its tariffs provisions that refunds for all or portions of the fees charged for interconnections in the event the Company fails to comply with the timelines set forth in the Company’s interconnection tariff. Public Service shall also propose in its interconnection tariffs a performance incentive mechanism (PIM) to govern its interconnection processes in accordance with Colorado policy.

35. On the same date that Public Service files the interconnection tariffs, the Company shall file a notice in this proceeding informing the Commission that it has submitted the tariff required by paragraph 3853(p).

36. Public Service shall file a second notice in this Proceeding no later than 7 days following the effective date of the Company’s interconnection tariffs.

37. We will close this Proceeding, as appropriate, upon review of the two required notices.

II. ORDER

A. The Commission Orders That:

1. A miscellaneous proceeding is opened to direct Public Service Company of Colorado (Public Service) to file interconnection tariffs pursuant to paragraph 3853(p) of the

Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3, consistent with the discussion above.

2. Public Service is a joined as an indispensable party to this proceeding.
3. Public Service shall file the interconnection tariffs in a new advice letter proceeding on not less than 30 days' notice. The advice letter filing shall be submitted no later than 45 days after the Mailed Date of this Decision.
4. Upon the filing of the advice letter required by this Decision, Public Service shall file a notice in this Proceeding, consistent with the discussion above.
5. Public Service shall file a second notice in this Proceeding on or immediately before the date its interconnection tariffs become effective, consistent with the discussion above.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 22, 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