

Decision No. R23-0189-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22R-0249E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION'S RULES REGULATING ELECTRIC UTILITIES TO IMPLEMENT THE PROVISIONS OF SB21-072 REGARDING TRANSMISSION UTILITY PARTICIPATION IN ORGANIZED WHOLESALE MARKETS, 4 CODE OF COLORADO REGULATIONS 723-3.

**INTERIM DECISION OF
HEARING COMMISSIONER ERIC BLANK
SCHEDULING HEARING**

Mailed Date: March 17, 2023

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On June 28, 2022, by Decision No. C22-0386, the Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) to amend the Rules Regulating Electric Utilities (Electric Rules) contained in 4 *Code of Colorado Regulations* 723-3 to implement sections of Senate Bill (SB) 21-072 and to set forth provisions otherwise governing participation in a regional wholesale market. The NOPR further designated Chairman Eric Blank as the Hearing Commissioner pursuant to § 40-6-101(2)(a), C.R.S.

2. The Hearing Commissioner conducted a hearing on the proposed rules set forth in the NOPR on October 11, 2022. At the end of the hearing, he stated that he would provide an

opportunity for additional comments from rulemaking participants and potentially schedule additional hearings by separate written decision.¹

3. On January 12, 2023, a group of participants in this rulemaking (Joint Commenters)² filed a proposed “Process Framework” reflecting their consensus on the goals and processes that should guide the Commission’s rules for the investigation and the analysis of organized market options to comply with SB 21-072. They explain that the Process Framework does not propose specific rules or revisions to the draft rules in the NOPR, but instead provides an outline to guide specific rule proposals. The Joint Commenters state that they plan to submit specific rule proposals, individually or jointly, that are consistent with the Process Framework.³

4. The Process Framework entails three sequential steps that lead to a Commission decision regarding: (1) whether an application to join a Regional Transmission Organization (RTO) complies with the statutory requirements of SB21-072 when filed by Public Service Company of Colorado (Public Service), Black Hills Colorado Electric, LLC (Black Hills), or Tri-State Generation and Transmission Association (Tri-State), together the Transmission Utilities; (2) whether joining such a market would result in just and reasonable rates and just and reasonable electric service for ratepayers; and (3) whether joining the market would be in the public interest. The first step would include Commission Information Meetings (CIMs), stakeholder meetings, technical conferences, and other types of informal processes. The second step would involve declaratory order proceedings in which the Commission would evaluate

¹ Hearing Transcript, Proceeding No. 22R-0249E, October 11, 2022, pp. 120-121.

² The Joint Commenters include Advanced Energy United, Clean Energy Buyers Association, Climax Molybdenum Company, Colorado Energy Consumers, Colorado Energy Office, Colorado Solar and Storage Association, Interwest Energy Alliance, the Colorado Office of the Utility Consumer Advocate, Signal Tech Coalition, Solar Energy Industries Association, The Sustainable FERC Project, Western Grid Group, and Western Resource Advocates.

³ Joint Commenters Supplemental Comments, January 12, 2023.

whether specific RTO markets satisfy SB 21-072 criteria. The third step would entail the filing of an application by each Transmission Utility for authorization to join a particular RTO previously addressed by a declaratory order from the second step. The application filing would lead to a full adjudicatory proceeding.

5. In a response filed on January 31, 2023, the three Transmission Utilities conclude that the Joint Commenters' proposal is lengthy and unduly burdensome. They likewise state that the proposed rules included with the NOPR also require substantial revisions to enable, and not impede, the achievement of Colorado's public policy goals and the efficient delivery of customer benefits through the market participation directed by the Colorado legislature in SB 21-072.⁴

6. The Transmission Utilities state that none of them have been engaged by the Joint Commenters on their alternative process framework. They further claim that the Joint Commenters' filing on January 12, 2023, is potentially disruptive with respect to the anticipated next steps in this rulemaking process. The Transmission Utilities ask the Hearing Commissioner to issue revised rules that efficiently achieve the objectives of SB-72 and avoid replicating, and possibly complicating, regional market processes at the state-level while supporting existing opportunities for collaboration and transparency. The Transmission Utilities go on to state that they reserve the right to separately respond to the Joint Commenters' latest filing and request that, if the Commission decides to consider the Joint Commenters' process framework, it establishes a reasonable timeline for detailed responses to be filed.

7. The Hearing Commissioner shares the Transmission Utilities' objective for the Commission to adopt rules that enable them to pursue their respective paths toward greater

⁴ Transmission Utilities Reply Comments, January 31, 2023.

market participation in an efficient manner.⁵ The Hearing Commissioner also shares the objectives of the Joint Commenters that underly the Process Framework to enhance transparency over the Transmission Utilities' RTO participation decisions, to streamline the evaluation of key issues for efficiency, and to maximize the potential for achieving consensus views of any Transmission Utility's intended RTO participation.⁶ However, there remains a considerable gap between the Process Framework suggested by the Joint Commenters and the approaches advanced by the Transmission Utilities. Further hearings in this matter are therefore required.

II. ORDER

A. **It is Ordered That:**

1. A continued public comment hearing in this matter shall be held as follows:

DATE: April 4, 2023

TIME: 9:00 a.m., continuing until concluded, but no later than 5:00 p.m.

PLACE: By video conference using Zoom at a link in the calendar of events on the Commission's website, available at: <https://puc.colorado.gov/>.

2. The Commission prefers and encourages interested persons to pre-file comments in this Proceeding (22R-0249E) through its E-Filings System at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=22R-0249E

⁵ Transmission Utilities Reply Comments, January 31, 2023, p. 4-5.

⁶ Joint Commenters Supplemental Comments, January 12, 2023, Attachment A, p. 4.

3. This Decision is effective upon its Mailed Date.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

Hearing Commissioner

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director