

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

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PART 3 RULES REGULATING ELECTRIC UTILITIES

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[indicates omission of unaffected rules]

GENERAL PROVISIONS

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) "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.
- (b) "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.
- (c) "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.
- (d) "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.
- (e) "Basis point" means one-hundredth of a percentage point (100 basis points = one percent).
- (f) "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.
- (g) "Commission" means the Colorado Public Utilities Commission.

- (h) “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).
- ~~(i)~~ “Cultural and historic resources” include cultural resources, human remains and associated funerary objects, viewsheds, and sacred objects.
- ~~(j)~~ “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.
- ~~(k)~~ “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.
- ~~(l)~~ “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.
- ~~(m)~~ “Energy assistance organization” means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.
- ~~(n)~~ “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.
- ~~(o)~~ “Financial security” includes any stock, bond, note, or other evidence of indebtedness.
- ~~(p)~~ “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.
- ~~(q)~~ “Heavy load” means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.
- ~~(r)~~ “Informal complaint” means an informal complaint as defined and discussed in the Commission’s Rules Regulating Practice and Procedure.
- ~~(s)~~ “Light load” means approximately five to ten percent of the nameplate-rated capacity of a meter.

- (~~ts~~) "Load" means the power consumed by an electric utility customer over time (measured in terms of either demand or energy or both).
- (~~ut~~) "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.
- (~~vt~~) "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.
- (~~wv~~) "Main service terminal" means the point at which the utility's metering connections terminate.
- (~~xw~~) "Major event" means an event as defined in and consistent with IEEE Standard Number 1366-2003, Guide for Electric Power Distribution Reliability Indices.
- (~~yx~~) "MVA" means mega-volt amperes and is the vector sum of the real power and the reactive power.
- (~~zy~~) "Non-standard customer data" means all customer data that are not standard customer data.
- (~~aaaz~~) "Output" means the energy and power produced by a generation system.
- (~~baaa~~) "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.
- (~~ccbb~~) "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.
- (~~ddee~~) "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.
- (~~eeed~~) "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.
- (~~ffee~~) "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.
- (~~ggff~~) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (~~hhgg~~) "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.
- (~~iihh~~) "RFP" means request for proposals.

- (~~jjj~~) "Rotating standard" means a portable meter used for testing service meters.
- (~~kkj~~) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- (~~llk~~) "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.
- (~~mm~~) "Significant site" means:
- (I) the Sand Creek Massacre National Historic Site located in Kiowa County, Colorado, that commemorates the November 29, 1864, attack on a village of Southern Cheyenne and Arapaho people along Sand Creek by the Colorado Volunteer (U.S.) Cavalry;
- (II) a site that is registered within the Cultural Resources Database maintained by the Office of Archaeology and Historic Preservation within History Colorado and is listed or eligible for listing on a local, state, or national register of historic places; or
- (III) a site designated by the Commission as a significant site within a particular proceeding.
- (~~nn#~~) "Standard customer data" means customer data maintained by a utility in its systems in the ordinary course of business.
- (~~oomm~~) "Test year" means a twelve-month period that is examined to determine a utility's costs of service in a rate case.
- (~~pp#~~) "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.
- (~~qqee~~) "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.
- (~~rrpe~~) "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.
- (~~ss~~) "Tribal Nations" are federally recognized Tribes.
- (~~ttqq~~) "Unique identifier" means a customer's name, mailing address, telephone number, or email address that is displayed on a bill.

- (~~uu~~) "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.
- (~~vv~~) "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.
- (~~ww~~) "Utility service" or "service" means a service offering of a utility, which service offering is regulated by the Commission.
- (~~xx~~) "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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OPERATING AUTHORITY

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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) As applicable, information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives.
- (IX) As applicable, a report of prudent avoidance measures considered and justification for the measures selected to be implemented.
- (X) For transmission construction or extension, the utility shall also comply with rule 3206.
- (XI) Impacts to significant sites as detailed in rule 3620 and actual or projected costs associated with avoidance or mitigation of impacts. The utility shall further submit any cultural resource surveys or analyses required by federal, state, or local agencies.

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ELECTRIC RESOURCE PLANNING

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3605. Cooperative Electric Generation and Transmission Association Requirements.

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- (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 best value employment metrics.
- (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.
- (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 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 shall request from bidders information regarding impacts to significant sites and the historic and cultural resources thereof, as detailed in rule 3620.

(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.

(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.
- (v) The Commission shall address the sufficiency of the utility's consideration of significant sites and the cultural and historic resources thereof, within the proposed RFP, model contracts, evaluation criteria, and other relevant activities.
- (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 best value employment metrics information provided by bidders.
- (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)(l), 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.
 - (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.

(F) The Commission shall consider the sufficiency of the regulated utility's treatment of significant sites and the cultural and historic resources thereof, and if relevant, whether mitigations or alternative actions are viable and cost-effective. In so doing, the Commission shall address how it has considered information presented by Tribal Nation(s) in rendering its 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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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 best value employment metrics information provided by bidders under rule 3616 and by the utility pursuant to rule 3611.
- (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 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. 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; energy-efficient technologies; and resources that affect employment and the 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. The Commission shall consider the sufficiency of the regulated utility’s treatment of significant sites and the cultural and historic resources thereof, and if relevant, whether mitigations or alternative actions are viable and cost-effective. In so doing, the Commission shall address how it has considered information presented by Tribal Nation(s) in rendering its decision.

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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) 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)~~ Significant sites. The utility shall request from bidders information regarding impacts to significant sites and the historic and cultural resources thereof, as detailed in rule 3620.
- ~~(ee)~~ 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).
- ~~(fe)~~ The utility shall require bidders to provide the contact name of the owner or developer designated to receive notice pursuant to paragraph 3613(a).

- (gf) 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; 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. The Commission shall address the sufficiency of the utility's consideration of significant sites and the cultural and historic resources thereof, within the proposed RFP, model contracts, evaluation criteria, and other relevant activities. 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.
- (l) 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; ~~and~~
 - (VI) a description of any ongoing discussion and/or consultation with Tribal Nations regarding impacts to significant sites that were identified in the most recent resource planning proceeding; and
 - (VI!) 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.

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[indicates omission of unaffected rules]

3620. Significant Sites.

This rule establishes procedures for utilities to identify and mitigate impacts to significant sites in the context of electric resource plans filed pursuant to rules 3600 through 3618, certificates of public convenience and necessity filed pursuant to § 40-5-101, C.R.S., and in other proceedings as set forth by the Commission.

(a) Identification of impacts to significant sites.

(I) Impacts to significant sites may be actual or potential.

(II) Utilities shall work diligently with Tribal Nations and the Office of Archaeology and Historic Preservation to identify impacts to significant sites and the cultural and historic resources thereof and shall notify and initiate consultation with affected Tribal Nation(s) as soon as reasonably practicable where such impacts are identified.

(III) Utilities shall include information regarding impacts to significant sites, and the cultural and historic resources thereof, in relevant applications. If the impacts are not known at the time of the application filing, the utility shall file relevant information as soon as practicable once impacts are identified.

(IV) Upon filing an application that addresses impacts to significant sites and the cultural and historic resources thereof, a utility shall provide notice of the filing to affected Tribal Nation(s) and the Office of Archaeology and Historic Preservation.

(b) Information regarding significant sites. A utility shall file the following information related to significant sites in applications as directed by these rules:

(I) a description of the actual or potential impacts associated with the proposed action(s);

(II) how actual or potential negative impacts can be avoided or mitigated;

(III) an analysis of alternative actions, such as viable siting alternatives, if negative impacts cannot be avoided;

(IV) which Tribal Nation(s) is affected by the proposed action(s);

(IV) a record of any communications between the utility and/or relevant third parties and Tribal Nation(s), including the positions, opinions, and concerns of Tribal Nation(s);

- (VI) the process by which the utility and/or relevant third parties will engage in consultation or other appropriate communications with affected Tribal Nation(s) during the pendency of the proceeding; and
- (VII) a description of federal, state, and local requirements relevant to the proposed action, including cultural resource surveys and requirements related to the identification and repatriation of cultural and historic resources.
- (c) A Tribal Nation may intervene by right in any relevant application that affects a significant site. The Tribal Nation must notify the Commission of its intervention of right either during the initial intervention period or within 30 days of the utility’s filing pursuant to subparagraph 3620(a)(III) if that filing occurs after the initial application filing. The notice of intervention by right shall identify one or more representatives who will participate on behalf of the Tribal Nation. A designated representative of a Tribal Nation need not be a licensed attorney.
- (d) As part of an intervention filing, a Tribal Nation may request that the Commission treat a site as a significant site for purposes of the proceeding. The Tribal Nation shall provide information explaining why the site should be treated as a significant site, if it does not already meet the definition set forth under rule 3001. The Commission shall address requests for treatment of additional significant sites in a decision addressing interventions, or may seek responsive comments to the request where appropriate.
- (e) Utility filings addressing significant sites shall include appropriate protections for information about the location of the site.

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[indicates omission of unaffected rules]

TRANSMISSION PLANNING

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[indicates omission of unaffected rules]

3627. Transmission Planning.

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[indicates omission of unaffected rules]

- (c) Each ten-year transmission plan shall contain the following information.
 - (I) The methodology, criteria and assumptions used to develop the transmission plan. This includes the transmission facility rating methodology and established facility ratings; transmission base case data for all applicable power flows, short circuit and transient stability analyses; and utility specific reliability criteria.

- (II) The load forecasts, load forecast reductions arising from net metered distributed generation and utility sponsored energy efficiency programs, and controllable demand - side management data including the interruptible demands and direct load control management used to develop the transmission plan.
- (III) The generation assumptions and data used to develop the transmission plan.
- (IV) The methodology used to determine system operating limits, transfer capabilities, capacity benefit margin, and transmission reliability margin, with supporting data and corresponding established values.
- (V) The status of upgrades identified in the transmission plan, as well as changes, additions or deletions in the current plan when compared with the prior plan.
- (VI) The related studies and reports for each new transmission facility identified in the transmission plan including alternatives considered and the rationale for choosing the preferred alternative. The depth of the studies, reports, and consideration of alternatives shall be commensurate with the nature and timing of the new transmission facility.
- (VII) The expected in-service date for the facilities identified in the transmission plan and the entities responsible for constructing and financing each facility.
- (VIII) A summary of stakeholder participation and input and how this input was incorporated in the transmission plan.
- (IX) Each electric utility subject to rate regulation shall also include energy resource zone plans, designations, and applications for certificates of public convenience and necessity pursuant to § 40-2-126(2), C.R.S.
- (X) A list of planned transmission line projects with the potential for the construction of a powerline trail that site a new transmission line, or extend an existing transmission line by more than one mile, or increase the capacity of an existing transmission line by more than ten percent.
- (XI) A list of planned transmission line projects where powerline trails are actively being considered, planned, or developed by a transmission provider.
- (XII) An active hyperlink or citation to where the powerline trail information required pursuant to § 33-45-103(2)(a), C.R.S., may be found.
- (XIII) Identification of all notifications made, or planned to be made, to local governments pursuant to § 29-20-108(6), C.R.S.
- (XIV) Identification of communications with Tribal Nations regarding significant sites.

- (d) No later than February 1 of each even year, each utility shall file all economic studies performed pursuant to FERC Order 890 since the last biennial filing. Such studies generally evaluate whether transmission upgrades or other investments can reduce the overall costs of serving native load. These studies are conducted for the purpose of planning for the alleviation of transmission bottlenecks or expanding the transmission system in a manner that can benefit large numbers of customers, such as the evaluation of transmission upgrades or additions necessary to build or acquire new generation resources. The report shall identify who requested the economic study and shall identify all economic studies requested but not performed.
- (e) No later than February 1 of each even year, each utility shall file conceptual long-range scenarios that look 20 years into the future. These conceptual long-range scenarios shall analyze projected system needs for various credible alternatives, including, at a minimum, the following:
 - (I) reasonably foreseeable future public policy initiatives;
 - (II) possible retirement of existing generation due to age, environmental regulations or economic considerations;
 - (III) emerging generation, transmission and demand limiting technologies;
 - (IV) various load growth projections; and
 - (V) studies of any scenarios requested by the Commission in the previous biennial review process.
- (f) Amended filings made pursuant to this rule are permitted at any time for good cause shown.
- (g) Government agencies and other stakeholders shall have an opportunity for meaningful participation in the planning process.
 - (I) Government agencies include affected federal, state, municipal and county agencies. Other stakeholders include organizations and individuals representing various interests that have indicated a desire to participate in the planning process. This may include Tribal Nations that are affected by impacts to significant sites.
 - (II) During the development of the ten-year transmission plan when objectives and needs are being identified, each utility shall actively solicit input from the appropriate government agencies and stakeholders to identify alternative solutions.
 - (III) Once a utility has evaluated the alternative solutions and has prepared recommendations for inclusion in its ten-year transmission plan, the utility shall notify the government agencies and stakeholders of these recommendations.
 - (IV) The outreach anticipated in subparagraphs (g)(II) and (g)(III) shall occur in a timely manner prior to the filing of the ten-year plans.
 - (V) Each utility shall concurrently provide the filings made pursuant to this rule to all government agencies and other stakeholders that participate in the planning process.