

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15R-0699E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING
ELECTRIC UTILITIES 4 CODE OF COLORADO REGULATIONS 723-3, INCLUDING
AMENDMENTS TO THE RULES IMPLEMENTING THE RENEWABLE ENERGY
STANDARD PURSUANT TO SENATE BILLS 15-046 AND 15-254 AND HOUSE BILLS
15-1284 AND 15-1377.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: August 20, 2015
Adopted Date: August 19, 2015

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking (NOPR) to amend the rules regulating electric utilities contained in 4 *Code of Colorado Regulations* (CCR) 723-3, consistent with Senate Bills (SB) 15-046 and 15-254 and House Bills (HB) 15-1284 and 15-1377, which modify the renewable energy statute, § 40-2-124, C.R.S., and the statute authorizing community solar gardens, § 40-2-127, C.R.S. The proposed rules also update the low income rules, references to federal rules, and procedures for testing revenue meters upon a customer's request. Finally, the proposed rules incorporate recent changes to the Commission's rules of practice and procedure contained in 4 CCR 723-1.¹

B. Discussion

1. Rules Implementing the Renewable Energy Standard

2. SB 15-046 modifies § 40-2-124(1)(c)(II)(A.5) to allow cooperative electric associations to subtract industrial retail sales from their total retail sales when calculating their minimum retail distributed generation requirement under the renewable energy standard. SB 15-046 also modifies § 40-2-127(2)(b)(I)(C) to allow community solar gardens to constitute retail distributed generation for purposes of cooperative electric associations' compliance with the applicable renewable energy standard under § 40-2-124. The Commission proposes to amend Rule 3655(k) and (m), respectively, to implement SB 15-046.

¹ See Proceeding Nos. 12R-500ALL and 14R-0419ALL.

3. SB 15-254 modifies § 40-2-124(1)(c)(VII) to extend the period during which certain incentives are available for municipally owned utilities to obtain renewable energy credits. The Commission proposes to amend Rule 3654(f) to allow municipal utilities to count each kWh of eligible energy generated from solar electric generation technology as three kWh of eligible energy as long as the solar electric generation is under contract for development before August 1, 2015 and commences electricity production before December 31, 2016.

4. HB 15-1284 modifies § 40-2-127(2)(b)(II) to allow customers of a qualifying retail utility to subscribe to a community solar garden that is in the same or adjacent county as the customer's location(s) to which the subscription is attributed. HB 15-1284 also eliminates the requirement that a customer's location(s) to which the subscription is attributed may be located in a different county than that in which the subscriber lives provided that each county has a population of 20,000 or less based on the most recent available census figures. The Commission proposes to amend Rule 3665(a)(I)(C) to effect these changes mandated by HB 15-1284.

5. HB 15-1377 adds § 40-2-124(1)(c)(II)(D), which prescribes the size, electricity output, and location of community solar gardens that cooperative electric associations can use to comply with the renewable energy standard. The Commission proposes to amend Rule 3655(I) to implement HB 15-1377.

6. The proposed rule amendments also remove outdated rules and subsections of rules implementing the renewable energy standard.

2. Maintaining Consistency with Practice and Procedure Rules

7. This rulemaking also updates the electric rules consistent with recent changes to the Commission's practice and procedure rules. In Proceeding No. 12R-500ALL,

the Commission amended the practice and procedure rules to increase procedural efficiency, serve the public interest, and make the rules more effective.² In Proceeding No. 14R-0419ALL, the Commission amended the practice and procedure rules to draw a distinction between attachments included in prefiled testimony and exhibits in a hearing; to clarify captions to a proceeding and titles to a pleading; to clarify procedures for immediate review of interim decisions; to clarify the timing of certain filings in proceedings where no statutory period for decision exists; to eliminate an inconsistency in the timing of motions to dismiss; and to make certain formatting, non-substantive changes.³ The Commission proposes various amendments throughout the electric rules to maintain consistency with the current practice and procedure rules.

3. Rule 3305 Revenue Meter Testing Upon Request

8. Rule 3305 requires utilities to test a customer's revenue meter upon the customer's request. If the customer continues to dispute the accuracy of a meter after the utility tests it, the customer can submit written request and have the meter tested by an independent testing facility. Under Rule 3402, if a meter is found to be inaccurate, the customer may receive a refund for over-billing.

² Decision No. C12-0511 (Notice of Proposed Rulemaking), ¶ 2, issued May 15, 2012. *See also* Decision No. R12-1466 (Recommended Decision Amending Rules), issued December 21, 2012; Decision No. C13-0442 (Commission Decision on Exceptions), issued April 16, 2013.

³ Decision No. C14-0479 (Notice of Proposed Rulemaking), ¶ 2, issued May 8, 2014. *See also* Decision No. R14-1190 (Recommended Decision Adopting Rules), issued October 1, 2014; Decision No. C14-1499 (Commission Decision on Exceptions), issued December 9, 2014.

9. Our proposed amendments to Rule 3305 require utilities to inform customers of: (1) customers' already-existing rights to have their revenue meters tested and, (2) customers' rights to a refund if a meter is found to be faulty. The proposed amendments to Rule 3305(a) require that, if a customer disputes the accuracy of a revenue meter, the utility providing electric service must inform the customer of the customer's rights to have the meter removed and tested by the utility. If the customer continues to dispute the accuracy of a revenue meter after the utility tests it, the proposed amendments to Rule 3305(b) require the utility to inform the customer of the customer's right to have the meter tested by an independent testing facility. Our proposed amendments to Rule 3305 also require that, if a meter is found to be inaccurate by the utility or the independent tester, the meter shall be deemed faulty. The utility must then inform the customer of his or her right to request a refund under Rule 3402.

4. Rule 3411 Low-Income Energy Assistance Act

10. Rule 3411 requires non-exempt electric utilities to allow their customers to contribute to a low-income energy assistance program through the customers' monthly billing statement. The Commission proposes to eliminate the subsections of Rule 3411 that require utilities to file an initial plan to implement this program because the deadline for initial plan applications has passed.

5. Rule 3005 Records and 3008 Incorporation By Reference

11. The Commission proposes to amend Rules 3005(c)-(g) and Rules 3008(a)-(c), (e)-(f) to update the effective dates of the federal rules that are incorporated by reference into the rules for electric utilities.

6. Rule 3006 Reports

12. The Commission proposes to eliminate redundant Rules 3006(e)-(n), which list various reports that utilities must provide to the Commission. The reports are already required under other rules.

C. Conclusion

13. The statutory authority for the rules proposed here is found at §§ 24-4-101, et seq., 40-1-101, et seq., 40-2-108, 40-2-124, 40-2-127, 40-3-102, 40-3-110, 40-4-101, and 40-4-108, C.R.S.

14. The proposed rules in legislative (i.e., strikeout/underline) format (Attachment A) are available through the Commission's Electronic Filings (E Filings) system at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=15R-0699E or by searching the E-Filings system from <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

15. This matter is referred to an Administrative Law Judge (ALJ) for the issuance of a recommended decision.

16. The ALJ will conduct a hearing on the proposed rules and related issues on October 19, 2015. Interested persons may submit written comments on the rules and present these orally at hearing, unless the ALJ deems oral presentations unnecessary.

17. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that initial comments be filed no later than September 25, 2015. The Commission further requests that comments responsive to the initial comments be filed no later than October 9, 2015. The Commission prefers that comments be filed using its E-Filing System at <http://www.dora.state.co.us/pls/efi/EFI.homepage>.

II. ORDER**A. The Commission Orders That:**

1. This Notice of Proposed Rulemaking, and Attachment A attached hereto, shall be filed with the Colorado Secretary of State for publication in the September 10, 2015, edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge for the issuance of a recommended decision.

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

DATE October 19, 2015

TIME: 9:00 a.m. until not later than 5:00 p.m.

PLACE: Commission Hearing Room
 1560 Broadway, Suite 250
 Denver, Colorado

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 before hearing. The Commission requests that initial pre-filed comments be submitted no later than September 25, 2015, and that any pre-filed comments responsive to the initial comments be submitted no later than October 9, 2015. The Commission will consider all submissions, whether oral or written.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 19, 2015.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners