

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0654E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES REGULATING
ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, RELATING
TO INTERCONNECTION PROCEDURES AND STANDARDS.

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

Mailed Date: December 11, 2020

Adopted Date: December 9, 2020

I. BY THE COMMISSION

A. Statement

1. The Commission hereby issues this Supplemental Notice of Proposed Rulemaking (Supplemental NOPR) regarding its rules governing Interconnection Standards and Procedures (Interconnection Rules) within the Commission's Rules Regulating Electric Utilities, 4 Code of Colorado Regulations (CCR) 723-3.

2. The need for this Supplemental NOPR arose from comments in this rulemaking, as well as comments in Proceeding 19M-0661EG and the resulting November 30, 2020 Report to the General Assembly on Performance Based Ratemaking.

B. Background

3. On November 25, 2019, the Colorado Public Utilities Commission issued a Notice of Proposed Rulemaking (NOPR) to amend the rules governing Interconnection Standards and Procedures (Interconnection Rules) within the Commission's Rules Regulating

Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3.¹ This NOPR followed the issuance of a previous NOPR in Proceeding No. 19R-0096E,² which initially included the Interconnection Rules now the subject of this rulemaking proceeding.

4. This NOPR proposed substantive changes to the Interconnection Rules. In the NOPR, the Commission noted that, “The Interconnection Rules are presently located within the Renewable Energy Standard Rules (RES Rules) at 4 CCR 723-3-3667 *et seq.* This NOPR proposes to move the Interconnection Rules to a new standalone section within 4 CCR 723-3, comprising Rules 4 CCR 723-3-3850 *et seq.*”

5. The Commission noticed the proposed rules, provided with Decision No. C19-0951 in legislative (*i.e.*, with strikeouts and underlines) format and in final format, available to the public through the Commission's Electronic Filings (E-Filings) system.

6. The NOPR adopted a schedule for filing comments and invited interested participants to file initial comments no later than January 7, 2020 and to file reply comments no later than January 21, 2020.

7. The Commission referred this matter to an Administrative Law Judge (ALJ) to preside over rulemaking hearings and for the issuance of a recommended decision.³ ALJ Denman held a public rulemaking hearing on February 3, 2020.

8. By the spring of 2020, the record in this Proceeding contained a large volume of written and oral comments, as well as extensive post-hearing comments and numerous revisions to the proposed rules. In Decision No. R20-0423-I, issued on June 5, 2020, the ALJ found that holding an additional rulemaking hearing was needed to gather additional information from

¹ Decision No. C19-0951, issued on November 25, 2019.

² See Decision No. C19-0951, ¶ 23 at pages 8 and 9.

Participants and to help clarify certain issues, so that the ALJ could fully evaluate and consider the arguments and revised rules proposed by the Participants. The additional rulemaking hearing was held on July 27, 2020. Oral comments were presented by representatives of the Colorado Solar and Storage Association (COSSA) and Solar Energy Industries Association (SEIA), the Colorado Energy Office (CEO), Western Resource Advocates (WRA), SunShare, LLC (Sunshare), Public Service Company of Colorado (Public Service), and Black Hills Colorado Electric, LLC (Black Hills).

9. On November 5, 2020, ALJ Denman issued Recommended Decision No. R20-0773. The Recommended Decision does not specifically address every comment or every proposed amendment to the Interconnection Rules, as some were clarifications and edits to existing language or format changes and many were not contested. The amendments propose to: 1) introduce a provision that addresses energy storage, pursuant to SB 18-009; (2) reorganize to consolidate provisions that apply generally to all interconnection requests and to separate out specific provisions that apply only to the Level 1 Process for certified inverter-based installations no larger than 10 kW; and (3) various other modifications to bring the rules up-to-date with recent FERC policies and IEEE standards.

10. On November 18, 2020, the Commission stayed Recommended Decision No. R20-0773. This decision was made to allow the Commission to explore the potential introduction of performance incentive mechanisms (PIMs) as applied to the interconnection of Distributed Energy Resources (DERs).

³ Decision No. C19-0951, Ordering ¶¶ 2 – 6 at pages 20 and 21.

C. Findings and Conclusions

11. The need for this Supplemental NOPR arose in light of comments provided in this rulemaking, as well as the Report to the General Assembly on Performance Based Ratemaking in Proceeding No. 19M-0661EG. The Commission believes that Interconnection Rules are critical for customer owned and third-party owned resources to connect to the electric utility's grids and are thus important to the adoption of DERs. In this rulemaking, there has been discussion of performance incentives, mostly focused on financial penalties for utilities not meeting standard timelines. The recently issued report on Performance Based Ratemaking, led by Commissioner Gavan, also makes mention of PIMs as applied to timeliness of processing interconnection request as well as increased interconnections for DERs. The report also mentions that with a change to the utility business model, interconnection may fall under a 'platform service model' where utilities can be rewarded for improved customer service.

12. The Commission is interested in public comment specifically to identify the problems a PIM would attempt to solve, especially focusing on how the currently proposed rules fail to address such problems. How should the Commission establish a baseline against which to measure performance of utilities when it comes to interconnection of DERs, including ease of process, timelines, response to issues, or outcomes such as total DER systems interconnected connected?

13. The Commission is interested in the type and level of financial incentives that should be applied to performance improvement. Is there a specific system value that can be quantified, associated with each MW of DERs? If so, what about a portion of such value being retained as an incentive by the utility?

14. The Commission notes that an additional decision will be forthcoming which will include further areas of discussion and additional questions prior to the public hearing. The public hearing and comments received on the topics outlined above will play a large role in whether the Commission promulgates rules to address PIMs as well as the content of any eventual proposed rules.

II. **ORDER**

A. **It Is Ordered That:**

1. This Supplemental Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the December 25, 2020, edition of *The Colorado Register*.

2. A Hearing on Performance Incentive Mechanisms related to Interconnection Standards and Procedures shall be held before the Commission, *en banc*, as follows:

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

DATES: January 22, 2021

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

PLACE: By video conference using GoToMeetings at a link that will be provided in a future Decision

At the time set for hearing in this matter, interested persons may submit written comments. Interested persons may also present oral comments at hearing, unless the Commission deems oral presentation unnecessary. The Commission prefers and encourages interested persons to pre-file comments in this proceeding through its E-Filings System at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=19R-0654E.

4. The Commission requests that initial pre-filed comments be submitted no later than January 18, 2021. 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
December 9, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners