

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 09R-904E

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IN THE MATTER OF THE PROPOSED RULES RELATED TO CONSTRUCTION OR  
EXTENSION OF ELECTRIC TRANSMISSION FACILITIES, 4 CODE OF COLORADO  
REGULATIONS 723-3.

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**RECOMMENDED DECISION OF  
HEARING COMMISSIONER  
JAMES K. TARPEY  
ADOPTING RULES**

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Mailed Date: May 7, 2010

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**I. STATEMENT****A. Background**

1. The Commission issued a Notice of Proposed Rulemaking (NOPR) regarding the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3. See Decision No. C09-1405, mailed December 17, 2009. The NOPR commenced this rulemaking proceeding. A copy of the proposed rules was attached to the NOPR.

2. The basis and purpose of this rulemaking proceeding is to revise the current rules applicable to construction or extension of electric facilities. The proposed rules accompanying the NOPR were published in the January 10, 2009 edition of *The Colorado Register*.

3. The Commission invited interested persons to file written comments no later than February 1, 2010 and reply comments no later than February 16, 2010. The Colorado Office of Consumer Counsel (OCC); Public Service Company of Colorado (Public Service); Interwest Energy Alliance; Black Hills/Colorado Electric Utility Company, L.P. (Black Hills); Tri-State Generation and Transmission Association, Inc. (Tri-State); and Colorado Independent Energy Association (CIEA) filed written comments.

4. Hearing Commissioner James K. Tarpey conducted a hearing on the proposed rule amendments on February 23, 2010. During the hearing, the OCC, CIEA, Black Hills, Tri-State, and Public Service provided oral comments.

5. The Hearing Commissioner reviewed these written and oral comments and issued revised proposed rules. He further requested that interested persons file written comments on the revised proposed rules by March 26, 2010. Decision No. R10-0229-I, mailed March 12, 2010.

6. Public Service, Black Hills, Tri-State, and Western Resource Advocates (WRA) submitted written comments on the revised proposed rules on March 26, 2010. The Hearing Commissioner reviewed the second set of written comments.

7. Being fully advised in this matter and consistent with the discussion below, the Hearing Commissioner issues the Recommended Decision adopting rules pursuant to § 40-6-109, C.R.S. To the extent specific recommendations made by interested parties are not discussed below, the Hearing Commissioner declines to adopt such recommendations.

**B. Notice and Intervention Periods**

8. In the NOPR, the Commission invited interested parties to comment on whether the new rules should shorten notice and intervention periods applicable to the applications for Certificates of Public Convenience and Necessity (CPCNs) for electric transmission facilities. In response, CIEA recommended adoption of rules requiring an initial Commission decision in such applications rather than a recommended decision by an administrative law judge. CIEA further recommended that the Commission shorten the time period for interventions to ten days.

9. On the other hand, Public Service contended that, overall, shortened notice and intervention periods will not result in a more expedited development of transmission projects. Public Service argued that a rule requiring persons seeking intervention to state with specificity their reasons for doing so would be more helpful. Further, Public Service argued against a rule that would require initial Commission decisions rather than recommended decisions in all cases involving utility applications for CPCNs for electric transmission facilities. It contended that the Commission is in the best position to determine how to manage its workload and priorities on a case-by-case basis.

10. The Hearing Commissioner will not adopt CIEA's recommendations on this issue. Instead, he agrees with Public Service that the Commission is in the best position to manage its workload and priorities on a case-by-case basis. Furthermore, shortened notice and intervention periods are not likely to expedite the development of transmission projects overall. On the other hand, the parties to a particular application can request a shortened notice or intervention period or an initial Commission decision and present arguments supporting such requests. The Hearing Commissioner finds that these procedural requests should be considered on a case-by-case basis. Further, the Hearing Commissioner declines to amend the rules applicable to interventions. These rules already require persons seeking intervention to state specific interests justifying permissive intervention and to demonstrate that the proceeding may substantially affect their pecuniary or tangible interests. *See* Rule 1401.

**C. Rule 3102**

11. In its comments and during the hearing, the OCC recommended adoption of rules that would require a utility to break down the costs of each transmission facility mentioned in its annual report into the following categories: land, substations, conductors, towers/poles, labor, and SCADA/Smartgrid communication equipment. The OCC further argued that the estimated total cost of each project should be converted into an annual revenue requirement and a monthly bill impact for residential and small commercial customers. The OCC also provided examples of recent CPCN applications where the applicant broke down the costs into land, substation, and transmission line portions.

12. In response to the above recommendations, the utilities generally stated that they would not be opposed to providing some of this data in a CPCN application, but that it may not yet be available when annual reports are filed pursuant to Rule 3206. Further, Tri-State argued

that revenue requirement and monthly bill impact are not relevant considerations with respect to Tri-State because it is not a rate-regulated utility. For its part, Public Service argued that some of the projects are of insufficient size and expense to impact rates and that transmission projects are typically integrated into its system and may facilitate third-party usage. Thus, Public Service did not believe it would be possible to provide a valid revenue impact estimate.

13. The Hearing Commissioner amends Rule 3102 to require utilities to break down the estimated total cost of a proposed transmission project into land, substation, and transmission line components, at the time a CPCN application is filed, rather than at the time of the annual report. The Hearing Commissioner declines to adopt the remaining recommendations made by the OCC.

14. The Hearing Commissioner will discuss the remaining modifications to Rule 3102 below, within the sections dealing with noise and magnetic fields respectively.

**D. Rule 3206(b)**

15. In the NOPR, the Commission proposed that all transmission projects designed at 230kV and above would require a CPCN, even for the projects that would be initially operated at a lower voltage. The transmission projects designed at below 230 kV would be exempted from the CPCN requirement *if* they meet the noise and magnetic field thresholds and have no unusual system impact or expense. The NOPR proposed that the projects not requiring a CPCN under proposed Rule 3206(b) would be deemed in the ordinary course of business pursuant to § 40-5-101, C.R.S.

16. In response to the NOPR, Tri-State argued that radial 230 kV lines built solely to serve a single customer are in the ordinary course of business and should not require a CPCN. The Hearing Commissioner agrees and amends Rule 3206(b) accordingly.

17. Tri-State further argued that because it does not serve retail load, Rule 3206(b), as proposed in the NOPR, would not apply to it. Tri-State suggested that all radial lines, whether designed at 115 kV or above, be considered within normal course of business and not require a CPCN.

18. The Hearing Commissioner finds that Rule 3206(b)(I) would apply to Tri-State in a situation where a radial line is built to serve a single retail customer, even if Tri-State does not serve that retail customer directly. The Hearing Commissioner further finds that the Commission should have an opportunity to review whether a radial 230 kV line that serves more than a single retail customer is indeed in the ordinary course of business and to review that proposed project in detail. The Hearing Commissioner therefore declines to amend Rule 3206(b)(I) based on that recommendation.

19. Tri-State also observed that 138 kV facilities (which are uncommon in Colorado) were not mentioned in the proposed rules. In response, the Hearing Commissioner modifies the proposed rules to account for such facilities.

20. Several parties argued that the term “unusual system impact or expense” proposed in the NOPR was vague. In addition, Tri-State argued that the term “expense” should not apply to Tri-State because it is not a rate-regulated utility. In response to these concerns, the Hearing Commissioner will delete that term from Rule 3206(b).

**E. Rule 3206(c)**

21. In the NOPR, the Commission discussed which extensions to existing facilities would not be in the ordinary course of business and would require a CPCN. The Commission proposed that: (1) modifications to an existing transmission line with a voltage of 230 kV and above that increase the continuous MVA rating; (2) modifications to existing transmission lines

with a voltage of 115 kV or less wherein either the noise or magnetic field thresholds would be exceeded; and (3) expansions of 230 kV substations that require acquisition of additional land would not be deemed to be in the ordinary course of business.

22. In response, several utilities argued that if the Commission issues a CPCN for a transmission line that initially will be operated at a lower voltage but can be operated at a higher voltage in the future, an additional CPCN should not be required when the line is up-rated to the initial design voltage. The Hearing Commissioner agrees and amends Rule 3206(c) accordingly.

23. Several utilities also argued that the proposed rules should not require a CPCN for 69 kV transmission lines that are being up-rated to 115 kV if noise and magnetic field thresholds would still be met. This is because 115 kV lines by themselves would not require a CPCN. The Hearing Commissioner agrees and amends proposed Rule 3206(c) accordingly.

24. Further, several utilities argued that if a substation is expanded to accommodate a project that by its own terms does not require a CPCN, then the substation expansion should not require a CPCN either. The Hearing Commissioner agrees and inserts additional language into Rule 3206(c) to reflect this recommendation.

#### **F. Transmission Planning**

25. In the NOPR, the Commission proposed a requirement wherein a utility would explain how a proposed transmission project is compatible with the conceptual long term needs of the utility's transmission system. In response, several parties argued that because long term planning requirements have not yet been defined, all references to such planning in the proposed rules should be deleted. On the other hand, CIEA opined that the rules should refer to near term planning in addition to long range planning. CIEA also recommended integration of the electric resource planning, transmission planning, and CPCN rules.

26. The Hearing Commissioner will delete proposed Rule 3206(h), which referenced long term transmission planning, until long term planning requirements are further defined in the future. Further, the Hearing Commissioner understands CIEA's concern regarding integration of electric resource planning, transmission planning, and CPCN rules, but declines to do so at this time because long term planning requirements have not yet been defined. Instead, the Hearing Commissioner finds that such integration should be deferred and will be taken up in the very near future in a rulemaking dealing with transmission planning rules.

**G. Rule 3206(d)**

27. In the NOPR, the Commission amended the requirements pertaining to filing of annual reports by utilities on proposed new construction or extension of transmission facilities. The Commission further discussed the required contents of such filings.

28. In response, several parties commented that the term "major equipment" within proposed Rule 3206(d) was vague. The Hearing Commissioner agrees and provides additional language for guidance. The Hearing Commissioner finds that transformers and shunt capacitors are critical to reliability and therefore constitute major equipment. Finally, the utilities can report modifications to transformers and shunt capacitors, if necessary, in subsequent annual reports or emergency filings.

29. Several utilities further argued that the annual report filed pursuant to Rule 3206 should not include a list of transmission facilities completed in the past year, with respect to the facilities that did not meet the threshold for inclusion in the annual report when they were first proposed. The Hearing Commissioner agrees and deletes this requirement.



**H. Magnetic Fields**

30. In the NOPR, the Commission proposed that magnetic field levels of 150 mG (milliGauss) and below would not be subject to further review and will not need to be mitigated to a lower level. The Commission also proposed that if the magnetic fields level sought by the utility is above 150 mG, the utility must present a range of alternatives and associated costs that would reduce the magnetic fields level to 150 mG or, if that is not possible, the utility must present a range of alternatives and associated costs that reduce it to the lowest possible level.

31. As a preliminary matter, Tri-State recommended that the term “electromagnetic fields” or “EMF” should be changed to “magnetic fields” since the rules do not address electric fields (*i.e.*, the “E” in “EMF”). The Hearing Commissioner agrees with that recommendation and amends the rules accordingly.

32. Several utilities sought a clarification on the duration of the magnetic field level of 150 mG. The utilities sought a clarification of whether this proposed value will refer to an expected average value, a design maximum value, or a real-time maximum value. The Hearing Commissioner clarifies that the rules will refer to the expected maximum magnetic field levels that could be experienced under non-emergency design conditions

33. Several utilities commented that the proposed rules required them to either meet the threshold magnetic field value or to propose a lowest achievable value if the threshold value is not achievable. The utilities argued that they should be also allowed to present an alternative intermediate magnetic field level that could be achieved at a reasonable cost, even if it were not a lowest achievable level. The Hearing Commissioner agrees and incorporates this comment into the rules.

34. Several interested parties further commented that defining the threshold magnetic field levels in cases of adjacent property where the transmission line is located at the edge of a highway or a railroad right-of-way should be addressed on a case-by-case basis rather than by a separate subsection dealing with such situations. The Hearing Commissioner agrees with these comments.

35. Tri-State recommended that the proposed rules should specify that magnetic fields that meet the 150 mG threshold will be deemed reasonable. The Hearing Commissioner agrees.

36. Further, Tri-State argued that a CPCN should not be required for modifications to existing transmission facilities if the magnetic field levels will be increased but will remain below applicable threshold amounts. The Hearing Commissioner agrees and modifies the rules accordingly.

37. Black Hills argued that the terms “concentrated population” and “group facilities such as schools and hospitals” were vague and should be deleted. The Hearing Commissioner clarifies that these terms are intended to be examples of the “prudent avoidance” standard and are not meant to be exclusive.

38. Black Hills recommended that the term “prudent avoidance” in Rule 3102(b)(IX) be deleted. Black Hills believed that this term is no longer relevant if the Commission will adopt an objective standard of 150 mG for magnetic field levels.

39. The Hearing Commissioner declines to adopt this recommendation. Black Hills is correct in that the NOPR proposed that a level of magnetic fields below 150 mG below will not be subject to further review and will not need to be mitigated to a lower level. However, in cases where magnetic field levels sought by the utility is above 150 mG for any reason, the concept of prudent avoidance remains relevant.

40. Finally, Public Service argued that the rule proposed in the NOPR would require the utility calculating the magnetic field levels of transmission lines located in corridors with multiple circuits to use the thermal ratings of the lines. Public Service argued that all circuits would never be operated at their maximum thermal capacity at the same time. For example, Public Service stated that the highest continuous loading for each line in a double-circuit configuration under system intact conditions is one-half of its thermal rating. Public Service concluded that it is not reasonable to model the magnetic field levels that reflect the operation of all circuits simultaneously to their thermal capacity.

41. The Hearing Commissioner does not agree with the statement that all circuits in multiple circuit corridors will never be operated concurrently at their maximum capacity at the same time. Further, if the level of magnetic fields is specified at some level less than the thermal rating of the circuits, monitoring must be in place to verify that such level is not exceeded. The intent of the rules is to utilize the commonly available information to determine the maximum level of magnetic fields, from a design perspective. This determination should not change with operating conditions and generating patterns.

#### **I. Noise**

42. In the NOPR, the Commission proposed that the level of noise at or below the applicable presumptive levels set in § 25-12-103(1), C.R.S., will not be subject to further review and will not need to be mitigated to a lower level. The NOPR also proposed that if the projected noise level is above the applicable presumptive levels set in § 25-12-101(1), C.R.S., the utility must present a range of alternatives and associated costs that would reduce the noise level to the applicable presumptive levels set in § 25-12-101(1), C.R.S. Finally, the NOPR proposed that if the noise level cannot be reduced to the applicable presumptive levels set in the statute, then the

utility must present range of alternatives and associated costs that reduce the noise level to the lowest possible level.

43. Several interested parties contended that § 25-12-103, C.R.S., does not establish noise levels for agricultural areas. However, the rules proposed in the NOPR treated agricultural areas similarly to residential areas. In response to these comments, the Hearing Commissioner deletes the references to agricultural areas.

44. Further, several interested parties argued that local zoning authorities may have zoning designations other than those listed in § 25-12-103(1), C.R.S., such as agricultural areas. These parties stated that for zoning designations not listed in § 25-12-103(1), C.R.S., the noise thresholds should be the same as for industrial areas. The Hearing Commissioner does not agree. Instead, the Hearing Commissioner finds that appropriate noise levels for agricultural and other areas not listed in the statute should be determined on a case-by-case basis. He also determines that, for areas not listed in the statute, noise thresholds should be based on the predominant land use and the closest corresponding zoning designation listed in the statute, for a specific segment of the transmission project. Finally, if an applicant proposes the noise threshold of 50 db(A) or below for any area, that applicant will be deemed to comply with both the rule and the statute.

45. Further, Tri-State argued that a CPCN should not be required for modifications to existing transmission facilities if noise levels will be increased but will remain below applicable threshold amounts. The Hearing Commissioner agrees and modifies the rules accordingly.

46. Several utilities commented that the NOPR would require them to either meet the applicable noise threshold or the lowest achievable level when the threshold was not achievable. The utilities argued that they should be also allowed to present an alternative intermediate noise

level that could be achieved at a reasonable cost, even if it was not the lowest achievable level. The Hearing Commissioner agrees and incorporates this recommendation into the rules.

47. Tri-State also argued that the rules should specify that the noise thresholds will be deemed to be reasonable. The Hearing Commissioner agrees and modifies the rules accordingly.

48. Public Service commented that noise level thresholds should not be mentioned in the rules. Instead, the rules should merely reference § 25-12-103(1), C.R.S. Public Service and other utilities also argued that the proposed rules afford less flexibility than the statute. Section 25-12-103(12), C.R.S., provides that the Commission, while reviewing utility applications for CPCNs for electric transmission facilities, may determine that projected noise levels other than those specified in § 25-12-103(1), C.R.S., are reasonable, taking into account concerns raised by the parties and the alternatives available to the utility to meet the need for electric transmission facilities. These parties argued that noise levels other than those set forth in the proposed rule or § 25-12-103(1), C.R.S., may be reasonable as well.

49. The Hearing Commissioner will not incorporate this comment into the rules. The noise thresholds specified in the rules are designed to expedite an application for a CPCN for an electric transmission facility. This does not mean that the Commission cannot find noise levels above these thresholds to be reasonable in a particular case. The Commission will make such a finding after taking into account concerns raised by the parties and alternatives available to the utility to meet the need for electric transmission facilities.

50. Black Hills argues that the terms “concentrated population” and “group facilities such as schools and hospitals” are vague and should be deleted. The same terms are used in the proposed rules applicable to magnetic fields. However, unlike magnetic fields, noise thresholds are specific to zoning designations. Because zoning designations reflect the predominant use of

land, the Hearing Commissioner agrees that the rules applicable to magnetic fields do not need to refer to these terms.

51. Black Hills argued that atmospheric conditions should be taken into account when modeling potential noise levels for transmission facilities. It recommended that the noise levels referred to in Rule 3206(g)(I) be modeled under normal atmospheric and weather conditions.

52. The Hearing Commissioner agrees, in part. He agrees that it is important to take into account atmospheric and weather conditions when modeling potential noise levels, because noise levels can vary greatly under fair and wet weather conditions. However, the Commission traditionally utilized wet, not normal, weather conditions to identify maximum permissible noise levels. Even though the Commission usually referred to such results as “rain,” that designation incorporated all types of wet weather (rain, fog, or snow). Therefore, Rain  $L_{50}$  is the sound level, expressed in dB(A), that is exceeded 50 percent of the time when modeled under wet weather conditions. The Hearing Commissioner finds that the noise levels specified in the proposed rules should be modeled under wet weather conditions.

#### **J. Environmental and Wildlife Issues**

53. In its comments, WRA argued that environmental and wildlife issues should be addressed as early as possible in the transmission development process and presented proposed language addressing these matters. The Hearing Commissioner notes that the CPCN process is designed to only address the issues of need, noise, and magnetic fields. The environmental and wildlife issues, on the other hand, are more properly addressed in other forums, including local siting processes, the National Environmental Policy Act processes, or a future long range transmission planning process. The Hearing Commissioner therefore will not adopt the language proposed by WRA.

## II. ORDER

### A. The Commission Orders That:

1. Commission Rules pursuant to 4 *Code of Colorado Regulations* 723-3-3102 and 3206, contained in Attachment A to this Order are adopted consistent with the discussion above.

2. This Recommended Decision shall be effective on the day it becomes a Decision of the Commission, if that is the case, and is entered as of the date above.

3. Pursuant to § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the interested parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the Recommended Decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a person seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that person must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the Hearing Commissioner and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(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

JAMES K. TARPEY

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Hearing Commissioner



## COLORADO DEPARTMENT OF REGULATORY AGENCIES

### Public Utilities Commission

#### 4 CODE OF COLORADO REGULATIONS (CCR) 723-3

##### PART 3 RULES REGULATING ELECTRIC UTILITIES

#### **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.

\* \* \* \* \*

**3206. Construction or Extension of Transmission Facilities.**

- (a) No utility and no cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., may commence new construction, or extension of transmission facilities or projects until either the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity or the Commission issues a certificate of public convenience and necessity. Rural electric cooperatives which have elected to exempt themselves from the Public Utilities Law pursuant to § 40-9.5-103, C.R.S., do not need a certificate of public convenience and necessity for new construction or extension of transmission facilities or projects when such construction or expansion is contained entirely within the cooperative's certificated area.
- (b) CPCN requirements for new transmission facilities. New transmission facilities that require a CPCN pursuant to this paragraph are not in the ordinary course of business. However, any utility may request a CPCN for any new transmission facility that does not require a CPCN under this paragraph. All utilities and electric cooperative associations subject to paragraph (a) of this rule shall be required to file a CPCN application for all new transmission facilities that meet one of the following criteria:
- (I) Transmission facilities designed at 230 kV or above, even if initially operated at a lower voltage. However, a radial transmission line designed at 230 kV or above that serves a single retail customer and terminates at that customer's premises will not require a CPCN application.
- (II) Transmission facilities designed at 115 kV or 138 kV, if:
- (A) The facilities do not meet the noise and magnetic field thresholds in paragraphs (e) and (f) of this rule; or
- (B) The Commission determines that the facilities are not in the ordinary course of business.
- (c) CPCN requirements for extension of transmission facilities. Any utility or electric cooperative association may request a CPCN for an extension of transmission facilities that would not otherwise require an application for a CPCN under this rule. For all utilities and electric cooperative associations subject to paragraph (a) of this rule, the following modifications are not in the ordinary course of business and shall require a CPCN:
- (I) Modification to any existing transmission facility that results in an increase in the noise or magnetic field levels and such levels are above the thresholds in paragraphs (e) and (f).
- (II) Modification to any existing transmission facility so that it will be operated at a higher voltage, with or without conductor replacement:
- (A) Unless a CPCN has already been approved for the operation of the transmission facility at the higher voltage; or

- (B) Unless the upgrade is to a voltage less than 230 kV, and the noise and magnetic field thresholds in paragraphs (e) and (f) are met.
- (d) Annual report for planned transmission facilities. No later than April 30 of each year, each electric utility and each cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., shall file with the Commission its proposed new construction or extension of transmission facilities for the next three calendar years, commencing with the year following the filing. The filing shall contain a reference to all such proposed new construction or extensions, regardless of whether the utility or cooperative electric association has referenced such new construction or extensions in prior annual filings. Amended filings or filings of an emergency nature are permitted at any time. By submitting the proper information, the report may request a decision that projects are in the ordinary course of business and do not require a CPCN.
  - (I) The filing shall contain the following information for each project:
    - (A) The name, proposed location, and function or purpose of the project.
    - (B) If the project is a substation or related facilities: the voltage level and the MVA rating of transformers and shunt capacitors.
    - (C) If the project is a transmission line: the voltage, the length in miles, the continuous MVA rating, and the substation termination points.
    - (D) The estimated cost of the project.
    - (E) The projected date for the start of construction, the estimated date of completion, and the estimated in-service date.
    - (F) For new construction or extensions that were included in prior annual filings, an update of the status of, and any changes to, such new construction or extensions. Once a project is reported as completed or cancelled, its status can be removed in subsequent filings.
  - (II) Review of annual report. Filings made in accordance with this paragraph will be reviewed pursuant to the following schedule:
    - (A) The Commission will give notice of each filing made pursuant to this rule to all those who it believes may be interested. Any interested person may file comments regarding the projects by June 15.
    - (B) The Staff shall review the filing and any comments received and shall make recommendations to the Commission by July 1.
- (e) Magnetic fields. This paragraph applies to any application for a CPCN or any filing made pursuant to paragraph (d) of this rule for which the Commission is requested to determine that a project does not require a CPCN. The filing shall include the expected maximum level of magnetic fields that could be experienced under design conditions at the edge of the transmission line right-of-way or substation boundary, at a location one meter above the ground.
  - (I) For a right-of-way containing a single circuit, the magnetic field level will be presented at the continuous MVA rating of that circuit.

- (II) For a right-of-way containing multiple circuits, the magnetic field level will be presented with all circuits at their continuous MVA rating.
  - (III) Proposed magnetic field levels of 150 mG (milliGauss) and below are deemed reasonable by rule and need not be mitigated to a lower level. Proposed magnetic field levels above 150 mG will be subject to further review.
  - (IV) If the magnetic field level for the proposed project is above 150mG, then the filing must present an alternative (e.g., different spatial arrangements of conductors, higher structures, wider rights-of-way, undergrounding lines, etc.), and associated costs, that reduces the magnetic field level to 150 mG. The applicant may also present other alternatives that yield intermediate magnetic field levels for the Commission's consideration.
  - (V) In the instance when the magnetic field level cannot be reduced to 150mG or below, the filing must present an alternative, and associated costs, that would reduce the magnetic field level to the lowest possible level. The applicant may also present other alternatives yielding intermediate magnetic field levels for the Commission's consideration.
  - (VI) If either subparagraph (IV) or (V) is applicable, then the filing must also describe the efforts and associated costs to route the line away from concentrated population and group facilities such as schools and hospitals.
  - (VII) If either subparagraph (IV) or (V) is applicable, the Commission shall weigh the societal, engineering, and economic considerations of the project as proposed and the alternatives presented in determining whether the CPCN should be granted.
- (f) Noise. This paragraph applies to any application for a CPCN or any filing made pursuant to paragraph (d) of this rule for which the Commission is requested to determine that a project does not require a CPCN. The filing shall include the projected level of noise radiating beyond the property line or right-of-way (as applicable) at a distance of 25 feet.
- (I) The filing shall provide computer studies which show the potential level of noise expressed in db(A). These computer studies shall be the output of utility standard programs, such as EPRI's EMF Workstation 2.51 ENVIRO Program – Bonneville Power Administration model and use the assumption that the proposed facility is operating at its highest continuous design voltage under L<sub>50</sub> rain conditions.
  - (II) Proposed levels of noise at or below the values listed are deemed reasonable by rule and need not be mitigated to a lower level.
    - (A) Residential 50 db(A)
    - (B) Commercial 55 db(A)
    - (C) Light industrial 65 db(A)
    - (D) Industrial 75 db(A)
  - (III) If the zoning designation that has been assigned by the local zoning regulatory agency for a specific segment of the transmission project is not listed in

subparagraph (II), the applicant shall reference the noise threshold corresponding to the zoning designation that most closely represents the predominant use of the land in question, with consideration given to the surrounding area. To support its selection of the applicable noise threshold, the applicant shall present information related, among other things, to the projected use of the land and surrounding area in the near term future. However, the noise level will not be subject to further review if the applicant proposes a noise threshold of 50 db(A) or below regardless of the use of the land.

- (IV) If the projected level of noise does not meet the threshold limits in subparagraph (II), then the filing must present an alternative (e.g., larger conductors, bundled conductors, different spatial arrangements of conductors, higher structures, wider rights-of-way, etc.) and associated costs, that reduces the level of noise to the proper threshold level. The applicant may also present other alternatives yielding intermediate noise levels for the Commission's consideration.
  - (V) In the instance where the level of noise cannot be reduced to the threshold levels in subparagraph (II), then the filing must present an alternative and associated costs that would reduce the level of noise to the lowest possible level. The applicant may also present other alternatives yielding intermediate noise levels for the Commission's consideration.
  - (VI) If either subparagraph (IV) or (V) is applicable, the Commission shall weigh the societal, engineering, and economic considerations of the project as proposed and the alternatives presented in determining whether the CPCN should be granted.
- (g) Service Connections. The utility shall install and maintain service connections from transmission extensions consistent with conditions contained in the utility's tariff.