

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

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**PART 3
RULES REGULATING ELECTRIC UTILITIES**

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BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to describe the electric service to be provided by jurisdictional utilities and master meter operators to their customers; to designate the manner of regulation over such utilities and master meter operators; and to describe the services these utilities and master meter operators shall provide. In addition, these rules identify the specific provisions applicable to public utilities or other persons over which the Commission has limited jurisdiction. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, cost allocation between regulated and unregulated operations, recovery of costs, the acquisition of renewable energy, small power producers and cogeneration facilities, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, [40-2-123](#), 40-2-124, [40-2-129](#), 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, [40-3.2-104](#), 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-8.7-105(5), 40-9.5-107(5), and 40-9.5-118, C.R.S.

GENERAL PROVISIONS

3000. Scope and Applicability.

- (a) Absent a specific statute, rule, or Commission Order which provides otherwise, all rules in this Part 3 (the 3000 series) shall apply to all jurisdictional electric utilities and electric master meter operators and to Commission proceedings concerning electric utilities or electric master meter operators providing electric service.
- (b) The following rules in this Part 3 shall apply to cooperative electric associations which have elected to exempt themselves from the Public Utilities Law pursuant to § 40-9.5-103, C.R.S.:
 - (l) Rules 3002 (a)(I), (a)(II), (a)(IV), (a)(V), (a)(XVI), (b), and (c) concerning the filing of applications for certificate of public convenience and necessity for franchise or service territory, for certificate amendments, to merge or transfer, or for appeals of local land use decisions.

- (II) Rules 3005 (a)(III) (IV), (d), (e), (g), and (h) concerning records under RUS accounting system and preservation of records.
 - (III) Rule 3006 (a) (b) (c) (d) and (e) concerning the filing of annual reports, designation for service of process, and election of applicability of Title 40, Article 8.5.
 - (IV) Rules 3008 (b) and (d) concerning incorporation by reference.
 - (V) Rules 3100 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to a franchise.
 - (VI) Rules 3101 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to service territory.
 - (VII) Rule 3104 concerning application to transfer assets, to obtain a controlling interest, or to merge with another entity.
 - (VIII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.
 - (IX) Rule 3207 (a) and (b), concerning construction and expansion of distribution facilities.
 - (X) Rules 3250 through 3253 concerning major event reporting.
 - (XI) Rule 3411 concerning the Low-Income Energy Assistance Act unless the cooperative electric association has exempted themselves pursuant to rule 3411(c).
 - (XII) Rules 3650(b), 3651, 3652, 3654(b), (e) through (j) and (m); 3659(a)(I) through (a)(V), (b) through (k), 3660(i), 3661(b), (c), (g), and (j), 3662(a)(I), (a)(II), (a)(IV) through (a)(X), (a)(XIII), (a)(XV), (b), (d) and (e), and 3665.
 - (XIII) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.
- (c) The following rules in this Part 3 shall apply to **cooperative electric generation and transmission associations**:
- (I) Rules 3002 (a)(III), (a)(XVI), (b), and (c) concerning the filing of applications for certificates of public convenience and necessity for facilities or for appeals of local land use decisions.
 - (II) Rule 3006(hj) concerning the filing of ~~least-cost~~electric resource planning reports.
 - (III) Rule 3102 concerning applications for certificates of public convenience and necessity for facilities.
 - (IV) Rule 3103 concerning amendments to certificates of public convenience and necessity for facilities.

- (V) Rule 3104 concerning application to transfer, to obtain a controlling interest, or to merger with another entity.
- (VI) Rule 3200 concerning construction, installation, maintenance, and operation of facilities.
- (VII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.
- (VIII) Rule 3205 concerning construction or expansion of generating capacity.
- (IX) Rule 3206 concerning construction or extension of transmission facilities.
- (X) Rule 3253(a) concerning major event reporting.
- (XI) Rules 3602, 3605, and ~~3614~~3617(a) concerning ~~least-cost~~electric resource planning.
- (XII) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.

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[indicates omission of unaffected rules]

3006. Reports.

- (a) On or before April 30th of each year, each utility shall file with the Commission an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility; and shall file the required number of copies pursuant to rule 1204(a)(IV) of the Commission's Rules of Practice and Procedure. If the Commission grants the utility an extension of time to file the annual report, the utility nevertheless shall file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year.
- (b) If a certified public accountant prepares an annual report for a utility, the utility shall file two copies of the report with the Commission within 30 days after publication.
- (c) A cooperative electric association shall file with the Commission a report listing its designation of service.
- (d) A cooperative electric association shall file with the Commission a report of election to be governed by § 40-8.5-102, C.R.S., pertaining to unclaimed monies. This report shall be filed within 60 days of the election.
- (e) Pursuant to rule 3204, a utility shall file with the Commission a report concerning any incident which results in death, serious injury, or significant property damage.

- (f) Pursuant to rules 3252 and 3253, a utility shall file with the Commission a report concerning any major event.
- (g) Pursuant to rule 3411(e)(IV), a utility shall file with the Commission a report concerning its fund administration of the Low-Income Energy Assistance Act.
- (h) Pursuant to rules 3503(a), 3504(a), and 3503(i), a utility shall file with the Commission cost assignment and allocation manuals, fully-distributed cost studies, and required updates.
- (i) Pursuant to rule ~~3614~~3617(a), a utility shall file with the Commission an annual progress report concerning the utility's ~~least-cost~~electric resource plan.
- (j) Pursuant to rule ~~3614~~3617(b), a utility shall file with the Commission reports on competitive acquisition bidding of the utility's ~~least-cost~~electric resource plan.
- (k) Pursuant to rule 3662, a utility shall file with the Commission its annual compliance report.
- (l) A utility shall file with the Commission any report required by a rule in this 3000 series of rules.
- (m) A utility shall file with the Commission such special reports as the Commission may require.

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[indicates omission of unaffected rules]

ELECTRIC RESOURCE PLANNING

3600. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (i.e., rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3601. Overview and Purpose.

The purpose of these rules is to establish a process to determine the need for additional electric resources by ~~Commission jurisdictional~~ electric utilities subject to the Commission's jurisdiction. ~~It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. This process is intended and to develop result in cost-effective resource portfolios to meet such need reliably, taking into consideration projected system needs, reliability of proposed resources, beneficial contributions of new clean energy and energy-efficient technologies, expected generation loading characteristics, and various risk factors. The competitive bid process should afford all resources an opportunity to bid, and all new utility resources will be compared in order to determine a cost-effective resource portfolio. It is the policy of the state of Colorado that a primary goal of electric utility resource~~

planning is to minimize the net present value of revenue requirements. It is also the policy of the state of Colorado that the Commission gives the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies.

3602. Definitions.

The following definitions apply to rules 3600 through ~~3645~~3618. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Availability factor" means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.
- (b) "Annual capacity factor" means the ratio of the net energy produced by a generating facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year round.
- (c) "Cost-effective resource plan" means a designated combination of new resources that the Commission determines can be acquired at a reasonable cost and rate impact. ~~A cost-effective resource plan may comprise the following: renewable resources to comply with the Renewable Energy Standard, 4 CCR 723-3-3650 et seq.; demand-side management to comply with § 40-3.2-104, C.R.S.; Section 123 resources proposed to be acquired without competitive bidding; selected bids from a competitive acquisition process; and, backup bids intended to replace the loss of one or more of the selected bids.~~
- (d) "Demand-side ~~management~~resources" means energy efficiency, energy conservation, load management, and demand response or any combination of these measures.
- (e) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.
- (f) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, resulting in a reduction in end-use services.
- (g) "Energy efficiency" means the decrease in electricity requirements of specific customers during any selected period with end-use services of such customers held constant.
- (h) "Heat Rate" means the ratio of energy inputs used by a generating facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kilowatt hours.
- (i) "Net present value of revenue requirements" means the current worth of the total expected future revenue requirements associated with a particular resource portfolio, expressed in dollars in the year the plan is filed as discounted by the appropriate discount rate.
- (j) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of revenue requirements for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.

- (k) "Renewable energy resources" means ~~anyall eligible-renewable~~ energy resources as defined in the Commission's Renewable Energy Standard Rules~~rule 3652~~.
- (l) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific resources to meet projected electric system demand and energy requirements. The resource acquisition period begins from the date the utility files its plan with the Commission.
- (m) "Resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.
- (n) "Resources" means supply-side resources, and demand-side management resources, ~~or renewable resources~~ used to meet electric system requirements.
- (o) "Section 123 resources" means new energy technology or demonstration projects, including new clean energy or energy-efficient technologies under § 40-2-123 (1), C.R.S., and Integrated Gasification Combined Cycle projects under § 40-2-123(2), C.R.S.
- (p) "Supply-side resources" means ~~a~~ resources that ~~can~~ provide electrical energy or capacity to the utility. Supply-side resources include utility owned generating facilities, and energy or capacity purchased from other utilities and non-utilities.
- (q) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3603. Resource Plan Filing Requirements.

Jurisdictional electric utilities shall file a resource plan pursuant to these rules on or before October 31, ~~2003~~2011, and every four years thereafter. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing. ~~Each utility shall file an original and fifteen copies of the plan with the Commission.~~

3604. Contents of the Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility shall provide work-papers to support the information contained in the plan. The plan shall include the following:

- (a) A statement of the utility-specified resource acquisition period, and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire resource plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of ~~base-load, intermediate and peaking the~~ needs of the utility system.
- (b) An annual electric demand and energy forecast developed pursuant to rule 3606.
- (c) An evaluation of existing resources developed pursuant to rule 3607.
- (d) An evaluation of transmission resources pursuant to rule 3608.

- (e) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule ~~3608~~3609.
- (ef) An assessment of the need for additional resources developed pursuant to rule ~~3609~~3610.
- (fg) ~~A description of t~~The utility's plan for acquiring these resources pursuant to rule ~~3610~~3611, including -
- (g) ~~A~~a description of the projected emissions, in terms of pounds per MWh and short-tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for these new utility-resources-expected-to-be-acquired-during-the-planning-period.
- (h) The annual water withdrawals and consumption for each of these resources, and the water intensity (in gallons per MWh) of the generating system as a whole, if these resources were included.
- (hi) The proposed RFP(s) the utility intends to use to solicit bids for energy and capacity~~the~~ resources to be acquired from the utility, other utilities and non-utilities through a competitive acquisition process, including model contracts, pursuant to rule ~~3612~~3615.
- (ij) The proposed treatment of and possible future disclosure of bid prices, other bid details, costs of utility self-build proposals and details associated with such proposals, bid evaluation results, and any other information that the utility may seek to protect as highly confidential. An explanation stating whether current rate designs for each major customer class are consistent with the contents of its plan. The utility shall also explain whether possible future changes in rate design will facilitate its proposed resource planning and resource acquisition goals.
- (jk) Descriptions of at least three alternate ~~scenarios-plans~~ that can be used to represent, ~~after the receipt of bids to the utility's competitive acquisition process,~~ the costs and benefits from increasing amounts of renewable energy resources, demand-side resources, or Section 123 resources potentially included in a cost-effective resource plan. One of the ~~three scenarios~~alternate plans shall represent a baseline case that describes the costs and benefits of the new utility resources required to meet the utility's needs during the planning period that minimize the net present value of revenue requirements ~~consistent with reliability considerations, financial and development risks, and the evaluation criteria approved by the Commission under rule 3613~~ and that complies with the Renewable Energy Standard, 4 CCR 723-3-3650 et seq., as well as with the demand-side ~~management~~ resource requirements under § 40-3.2-104, C.R.S. The ~~two~~other scenarios-alternate plans shall represent alternative combinations of resources that meet the same resource needs as the baseline case but that include proportionately more renewable energy resources, demand-side resources, or Section 123 resources. The utility shall propose a range of possible future scenarios and input sensitivities for the purpose of testing the robustness of the alternate plans under various parameters.
- (kl) An assessment of the costs and benefits of the integration of intermittent renewable energy resources on the utility's system, including peer-reviewed studies, consistent with the amounts of renewable energy resources the utility proposes to acquire.

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, ~~36083609~~(a) and ~~36093610~~. Each cooperative generation and transmission association shall also file annual reports pursuant to subparagraphs (a)(I) through (a)(VI) of rule ~~36143617~~.

3606. Electric Energy and Demand Forecasts.

- (a) Forecast requirements. The utility shall prepare the following energy and demand forecasts for each year within the planning period:
 - (I) Annual sales of energy and coincident summer and winter peak demand in total and disaggregated among Commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states.
 - (II) Annual sales of energy and coincident summer and winter peak demand on a system wide basis for each major customer class.
 - (III) Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand.
 - (IV) Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand.
 - (V) Annual system losses and the allocation of such losses to the transmission and distribution components of the system. Coincident summer and winter peak system losses and the allocation of such losses to the transmission and distribution components of the systems.
 - (VI) Typical day load patterns on a system-wide basis for each major customer class. This information shall be provided for peak-day, average-day, and representative off-peak days for each calendar month.
- (b) Range of forecasts. The utility shall develop and justify a range of forecasts of coincident summer and winter peak demand and energy sales that its system may reasonably be required to serve during the planning period. The range shall include base case, high, and low forecast scenarios of coincident summer and winter peak demand and energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.
- (c) Required detail.
 - (I) In preparing forecasts, the utility shall develop forecasts of energy sales and coincident summer and winter peak demand for each major customer class. The utility shall use end-use, econometric or other supportable methodology as the basis for these forecasts. If the utility determines not to use end-use analysis, it shall explain the reason for its determination as well as the rationale for its chosen alternative methodology.

~~(II) The utility shall explain the effect on its energy and coincident peak demand forecast of all existing demand-side management programs for each major customer class, as well as any such measures that have been approved by the Commission but are not included in the forecasts.~~

(III) The utility shall maintain, as confidential, information reflecting historical and forecasted demand and energy use for individual customers in those cases when an individual customer is responsible for the majority of the demand and energy used by a particular rate class. However, when necessary in the resource plan proceedings, such information may be disclosed to parties who intervene in accordance with the terms of non-disclosure agreements approved by the Commission and executed by the parties seeking disclosure.

- (d) Historical data. The utility shall compare the annual forecast of coincident summer and winter peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the five years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecasts in its most recently filed resource plan to the annual forecasts in the current resource plan.
- (e) Description and justification. The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this rule, as well as the forecasts themselves.
- (f) Format and graphical presentation of data. The utility shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting parties in such electronic formats as the Commission shall reasonably require.

3607. Evaluation of Existing ~~Generation~~ Resources.

- (a) Existing generation resource assessment. The utility shall describe its existing ~~generation~~ resources, all utility-owned generating facilities for which the utility has obtained a Certificate of Public Convenience and Necessity (CPCN) from the Commission pursuant to § 40-5-101, C.R.S., at the time the plan is filed, and existing or future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description shall include, when applicable, the following:
- (I) Name(s) and location(s) of utility-owned generation facilities.
- (II) Rated capacity and net dependable capacity of utility-owned generation facilities.
- (III) Fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities over the resource acquisition~~planning~~ period.
- (IV) Estimated in-service dates for utility-owned generation facilities for which a CPCN has been granted but which are not in service at the time the plan under consideration is filed.
- (V) Estimated remaining useful lives of existing generation facilities without significant new investment or maintenance expense.

- (VI) The amount of capacity ~~and/or~~ energy, and demand-side resources purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy purchased pursuant to such contracts.
 - (VII) The amount of capacity and energy provided pursuant to wheeling or coordination agreements, the duration of such wheeling or coordination agreements, and a description of any contract provisions that allow for modification of the amount of capacity and energy provided pursuant to such wheeling or coordination agreements.
 - (VIII) The projected emissions, in terms of pounds per MWh and short-tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for the resources identified under this paragraph 3607(a).
 - (IX) The expected demand-side resources during the resource planning period from (1) existing measures installed through utility-administered programs, and (2) from measures expected to be installed in the future through utility-administered programs in accordance with a Commission-approved plan.
- (b) Utilities required to comply with these rules shall coordinate their plan filings such that the amount of electricity purchases and sales between utilities during the planning period is reflected uniformly in their respective plans. Disputes regarding the amount, timing, price, or other terms and conditions of such purchases and sales shall be fully explained in each utility's plan. If a utility files an interim plan as specified in rule 3603, the utility is not required to coordinate that filing with other utilities.

3608. Transmission Resources.

- (~~ea~~) ~~Existing transmission capabilities and future needs.~~
- (f) The utility shall report its existing transmission capabilities, and future needs during the planning period, for facilities of 115 kilovolts and above, including associated substations and terminal facilities. The utility shall generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources.
- (b) With respect to future needs, the utility shall submit a description of all transmission lines and facilities appearing in its most recent report filed with the Commission pursuant to § 40-2-126, C.R.S., that, as identified in that report, could reasonably be placed into service during the resource acquisition period. ~~explain the need for facilities based upon future load projections (including reserves). To the extent reasonably available, the utility shall include a description of~~
- (c) For each transmission line or facility identified in paragraph (b), the utility shall include the following information detailing assumptions to be used for resource planning and bid evaluation purposes:
 - (I) the L-length and location. ~~of any additional facilities needed, their~~
 - (II) Estimated in-service date.

(III) Injection capacity.

(IV) Estimated costs.

(V) Terminal points.

(VI) Voltage and megawatt rating, alternatives considered or under consideration, and other relevant information.

~~(II) The utility shall report its plans for compliance with the requirements of SB-07-100, including how such plans may affect the acquisition of eligible energy resources that comply with the Renewable Energy Standard, 4 CCR 723-3-3650 et seq., and the acquisition of Section 123 resources.~~

~~(III) (d) In order to equitably compare possible resource alternatives, the utility shall consider all the transmission costs required by, or imposed on the system by, and the transmission benefits provided by a particular resource as part of the bid evaluation criteria.~~

(e) The resource plan shall describe and shall estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process.

36083609. Planning Reserve Margins and Contingency Plans.

(a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices).

(b) The utility shall develop and justify planning reserve margins for ~~each year of~~ the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: (1) the development of generation, (2) losses of generation capacity, (3) purchase of power, (4) losses of transmission capability, (5) risks due to known or reasonably expected changes in environmental regulatory requirements, and (6) other risks. The utility shall develop planning reserve margins for its system ~~for each year of over~~ the planning period ~~outside of beyond~~ the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.

(c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for ~~each year of~~ the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its proposed contingency plans for the acquisition of (1) additional resources if actual circumstances deviate from the most likely estimate of future resource needs developed pursuant to rule 36093610, or (2) replacement resources in the event that resources are not developed in accordance with a Commission-approved plan under rule 3616. The utility will identify the estimated costs it will incur in developing the contingency plan for addressing the acquisition of these resources (e.g., purchasing equipment options, establishing sites, engineering). The Commission will consider approval of contingency plans only after the utility receives bids, as described in

subparagraph ~~3614~~3617(b)(II). The provisions of paragraph ~~3613~~3616(d) shall not apply to the contingency plans unless explicitly ordered by the Commission.

36093610. Assessment of Need for Additional Resources.

- (a) By comparing the electric energy and demand forecasts developed pursuant to rule 3606 with the existing level of resources developed pursuant to rule 3607, and planning reserve margins developed pursuant to rule ~~3608~~3609, the utility shall assess the need to acquire additional resources during the resource acquisition period.
- (b) In assessing its need to acquire additional resources, the utility shall also:
- (I) Determine the additional renewable energy resources (e.g., retail distributed generation (DG), wholesale DG, non-DG) resources, if any, the utility will need to acquire to comply with the Commission's Renewable Energy Standard Rules.
- (II) Take into account the demand-side resources it must acquire to meet the energy savings and peak demand reduction goals established under § 40-3.2-104, C.R.S. To that end, the Commission shall permit the utility to implement cost-effective demand-side resources to reduce the need for additional resources that would otherwise be met through a competitive acquisition process pursuant to rule 3611.
- (c) The Commission may give consideration of the likelihood of new environmental regulations and the risk of higher future costs associated with the emission of greenhouse gases such as carbon dioxide when it considers utility proposals to acquire additional resources during the resource acquisition period.

36403611. Utility Plan for Meeting the Resource Need.

- (a) It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. The competitive bid process should afford all resources an opportunity to bid, and all new utility resources will be compared in order to determine a cost-effective resource plan (i.e., an all-source solicitation).
- (b) Notwithstanding the Commission's preference for ~~such~~ all-source bidding for the acquisition of all new utility resources under these rules, the utility may propose ~~in~~ its filing under rule 3603, ~~the utility shall describe its resource~~ an alternative plan for acquiring the resources to meet the need identified in rule ~~3609~~3610. The utility ~~shall propose the portion of its resource need for each year of the resource acquisition period that it intends to satisfy with: (1) eligible energy resources to comply with the Renewable Energy Standard, 4 CCR 723-3-3650 et seq.; (2) demand-side management programs to comply with § 40-3.2-104, C.R.S.; (3) Section 123 resources proposed to be acquired without competitive bidding; and, (4) any stand-alone voluntary tariff services, where all costs are separate from standard tariff services, if available.~~ The utility shall specify the portion of the resource need that it intends to meet through an all-source competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.

- ~~(bc) The utility shall meet the resource need identified in the plan through a competitive acquisition process, unless the Commission approves an alternative method of resource acquisition. 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 an all-source competitive acquisition process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition. ~~The resource plan shall describe and shall estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process. The utility shall also explain and shall justify how the alternative method of resource acquisition complies with the requirements of the Public Utility Regulatory Policies Act of 1978 and Commission rules implementing that act. The lesser of 250 megawatts or ten percent of the highest base case forecast peak requirement identified for the resource acquisition period shall be the maximum amount of power that the utility may obtain through such alternative method of resource acquisition (1) in any single resource acquisition period and (2) from any single specific resource, regardless of the number of resource acquisition periods over which the units, plants, or other components of the resource might be built or the output of the resource made available for purchase.~~~~
- ~~(d) Although the utility may propose a method for acquiring new utility resources other than all-source competitive bidding, as a prerequisite, the utility shall nonetheless include in its plan filed under rule 3603 the necessary bid policies, RFPs, and model contracts necessary to satisfy the resource need identified under rule 3610 exclusively through all-source competitive bidding.~~
- ~~(ee) In the event that the utility proposes an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall file, simultaneously with its plan submitted under rule 3603, an application for a CPCN for such new resource. The Commission may consolidate, in accordance with the Commission's Rules of Practice and Procedure, the proceeding addressing that application for a CPCN with the resource planning proceeding. The utility shall provide a detailed estimate of the cost of the proposed facility to be constructed and information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate those alternatives. ~~The utility shall have the flexibility to propose multiple resource acquisitions at various times over the resource acquisition period. However, the limits specified in paragraph (b) of this rule shall apply to the total resources acquired through an alternative method during an entire four-year planning cycle.~~~~
- ~~(f) The utility may participate in a competitive resource acquisition process by proposing the development of a new utility resource that the utility shall own as a rate base investment. The utility shall provide sufficient cost information in support of its proposal such that the Commission can reasonably compare the utility's proposal to alternative bids. In the event a utility proposes a rate base investment, the utility shall also propose how it intends to compare the utility rate based proposal(s) with non-utility bids. The Commission may also address the regulatory treatment of such costs with respect to future recovery.~~
- ~~(dg) Each utility shall propose a written bidding policy as part of its filing under rule 3603, including the assumptions, criteria, and models that will be used to solicit and evaluate bids in a fair and reasonable manner. The utility shall specify the competitive acquisition procedures that it intends~~

to use to obtain resources under the utility's plan. The utility shall also propose, and other interested parties may provide input as part of the resource plan proceeding, criteria for evaluating the costs and benefits of resources such as the valuation of emissions and non-energy benefits.

(h) In the event that the utility proposes to acquire specific resources through an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall provide the Commission with the following best value employment metric information regarding each 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.

3612. Independent Evaluator.

(ea) ~~Within sixty days of~~Prior to the filing of the plan under rule 3603, the utility shall file for Commission approval the name of the independent evaluator (IE) who the utility, the Staff of the Commission, and the OCC jointly propose. Should the utility, the Staff, and the OCC fail to reach agreement on an independent evaluator IE, the Commission shall refer the matter to an administrative law judge for resolution. In any event, the Commission shall approve an independent evaluator IE by written decision within ~~420~~ 30 days of the filing of the plan under rule 3603.

(b) The utility shall pay for the services provided by the independent evaluator IE pursuant to a contract approved by the Commission. The terms of such contract shall prohibit the independent evaluator IE from assisting any entity making proposals to the utility for subsequent resource acquisitions for three years.

(fc) The utility shall work cooperatively with the independent evaluator IE and shall provide the independent evaluator IE immediate and continuing access to all documents and data reviewed, used, or produced by the utility in the preparation of its plan and in its bid solicitation ~~and~~ evaluation, and selection processes. The utility shall make available the appropriate utility staff to meet with the independent evaluator IE to answer questions and, if necessary, discuss the prosecution of work. The utility shall provide to the independent evaluator IE, in a timely manner so as to facilitate the deadlines outlined in these rules, ~~the transmission studies necessary to evaluate all proposed and bid resources as well as any additional information necessary for independently modeling resources bid evaluation results and modeling runs so that the IE can verify these results and can investigate options that the utility did not consider. In the event that the IE notes a problem or a deficiency in the bid evaluation process, the IE should notify the utility.~~

- (gd) ~~While the independent evaluator is under contract, the utility may initiate contacts with the independent evaluator and the independent evaluator may initiate contacts with the utility. All parties in the resource plan proceeding other than the utility are restricted from initiating contacts with the independent evaluator. All parties in the resource plan proceeding other than the utility are restricted from initiating contacts with the independent evaluator. The IE may initiate contact with the utility and other parties. For all contacts with parties in the resource plan proceeding, including those with the utility, the independent evaluator IE shall maintain a log that briefly identifies the entities communicating with the independent evaluator IE, the date and duration of the communication, the means of communication, the topics discussed, and the materials exchanged, if any. Such log shall be posted weekly on the Commission's website for the duration of the independent evaluator IE's contract.~~
- (e) ~~In the event that the utility proposes a method for resource acquisition other than all-source competitive bidding, the Commission may retain the IE to assist the Commission in the rendering a decision on such alternative method for resource acquisition. The IE shall file a report with the Commission, prior to the evidentiary hearings, concerning its assessment of the costs and benefits that the utility has presented to the Commission to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through that alternative method of resource acquisition. The IE shall also address in its report whether the utility's proposed competitive acquisition procedures and proposed bidding policy, including the assumptions, criteria and models, are sufficient to solicit and evaluate bids in a fair and reasonable manner.~~
- (f) ~~The IE shall generally serve as an advisor to the Commission and shall generally not be a party to the proceedings. As such, the IE shall not be subject to discovery and cross-examination at hearing. The Commission shall convene at least one procedural conference to establish a procedure related to questions to the IE from the utility and parties regarding the IE's filings in the proceeding.~~

3613. Bid Evaluation and Selection.

- (ha) ~~Within 120 days of the utility's receipt of bids to-in its competitive acquisition process, the utility and the independent evaluator shall each separately file a report with the Commission describing the cost-effective resource plans that conform to the three alternate range of scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, 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 all-of-the three alternate 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 3615 and by the utility pursuant to rule 3611.~~

- (b) ~~Within 4530 days after the filing of the utility's 120-day report under paragraph 3613(a), The independent evaluator's the IE shall separately file a report that will contains the evaluator's IE's views on analysis of whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. The IE shall provide confidential versions of these reports to Staff of the Commission and the OCC. Confidential versions of these reports will be provided to Staff of the Commission and the OCC. Non-confidential versions of the same reports will be provided to the other parties in the resource planning proceeding.~~
- (ic) ~~Within 45 days after the filing of the independent evaluator's and the utility's 120-day reports under paragraph 3613(a), the parties in the resource plan proceeding, including the utility, shall be given the opportunity to may file comments on the utility's reports and the IE's report. The Commission shall convene a procedural conference to establish the scope and a schedule for discovery concerning the reports, balancing the parties' needs for timely information with the expedited timeline for establishing a cost-effective resource plan. The independent evaluator shall be available to testify before the Commission as an expert witness.~~
- (d) ~~Within 60 days after the filing of the utility's 120-day report under paragraph 3613(a), the utility may file comments responding to the IE's report and the parties' comments.~~
- (je) ~~Within 45-90 days after the receipt of the parties' comments on the utility's and independent evaluator's 120-day reports under paragraph 3613(a), the Commission shall issue a written decision approving, conditioning, modifying, or rejecting the utility's report submitted under paragraph 3610(h), which establishes the utility's final 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 certificates of public convenience and necessity CPCNs (other than those CPCN's provided in paragraph 3611(e)), as necessary. In rendering the decision on the approving, conditioning, modifying, or rejecting the utility's 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 in accordance with §§ 40-2-123, 40-2-124, and 40-3.2-104, C.R.S..~~

36143614. Exemptions and Exclusions from Competitive Acquisition.

- (a) ~~The following resources need not be acquired through a competitive acquisition process and need not be included in an approved resource plan prior to acquisition:~~
- (a) ~~Emergency maintenance or repairs made to utility-owned generation facilities.~~
 - (b) ~~Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than 30 megawatts.~~

~~(eIII)~~ 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 30 megawatts of capacity.

~~(eIV)~~ Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than 30 megawatts, 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.

(V) Interruptible service provided to the utility's electric customers.

~~(e) Interruptible service provided to the utility's electric customers.~~

~~(fVI)~~ 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 30 MW of capacity to the utility's system, and is cost effective in comparison to other supply-side alternatives available to the utility.

~~(gVII)~~ Utility investments in emission control equipment at existing generation plants.

(VIII) Utility administered demand-side programs implemented in accordance with § 40-3.2-104, C.R.S.

~~(h) Utility investments in renewable resources under paragraph 3660(e).~~

~~(i) Utility investments in demand-side management developed in accordance with § 40-3.2-104, C.R.S..~~

36123615. 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 36103611. 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 ~~and each fuel and technology combination that could reasonably be expected to meet that need~~, including contracts for supply-side resources, renewable energy resources, or Section 123 resources as required by the approved resource plan. ~~The Commission encourages settlement of model contracts by the utility and prospective bidders for final approval under rule 3613.~~

(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): (1) details concerning its base-load, intermediate, and/or peaking resource needs and preferred fuel type; (2) reasonable estimates of transmission costs for resources located in different areas; (3) 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; (4) the utility's proposed model contract(s) for the acquisition of resources; (5) proposed contract term lengths; (6) discount rate; (7) general planning assumptions; and (8) 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.

36133616. 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 copies to all parties who participated in the application docket 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: (1) the utility's assessment of need for additional resources in the resource acquisition period; (2) the utility's plans for acquiring additional resources through ~~the an all-source~~ competitive acquisition process or through an alternative acquisition process; (3) components of the utility's proposed RFP, such as the model contracts and the proposed evaluation criteria; and (4) the ~~three~~-alternate scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, or Section 123 resources. A Commission decision pursuant to paragraph ~~3610(f)~~3613(e) 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.
- (I) 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 certificate of public convenience and necessity 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.

36143617. Reports.

- (a) Annual progress reports. The utility shall file with the Commission, and shall provide to all parties to the most recent resource planning docket, 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 ~~also~~ 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 ~~3608~~3609.
 - (IV) An updated assessment of need for additional resources developed pursuant to rule ~~3609~~3610.
 - (V) An updated report of the utility's plan to meet the resource need developed pursuant to rule ~~3610~~3611 and the resources the utility has acquired to date in implementation of the plan.
 - (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.

- (b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:
- (I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: (1) the identity of the bidders and the number of bids received, (2) the quantity of MW offered by bidders, (3) a breakdown of the number of bids and MW received by resource type, and (4) a description of the prices of the resources offered.
 - (II) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file, within 30 days after bids are received, an application for approval of a contingency plan. The application shall include the information required by rules 3002(b) and 3002(c), the justification for need of the contingency plan, the proposed action by the utility, the expected costs, and the expected timeframe for implementation.

36453618. Amendment of an Approved Plan.

The utility may file, at any time, an application to amend the contents of a plan approved pursuant to rule 36433616. Such an application shall meet the requirements of paragraphs 3002(b) and 3002(c), shall identify each proposed amendment, shall state the reason for each proposed amendment, and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure.

36463619. – 3649. [Reserved]

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[indicates omission of unaffected rules]