

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0096E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, RELATING TO ELECTRIC RESOURCE PLANNING, THE RENEWABLE ENERGY STANDARD, NET METERING, COMMUNITY SOLAR GARDENS, QUALIFYING FACILITIES, AND INTERCONNECTION PROCEDURES AND STANDARDS.

**INTERIM DECISION SCHEDULING HEARING,
PROPOSING ADDITIONAL RULE REVISIONS,
SOLICITING FURTHER COMMENTS, AND
SEVERING CERTAIN AMENDMENTS TO THE
COMMISSION’S ELECTRIC RULES INTO
SEPARATE RULEMAKING PROCEEDINGS**

Mailed Date: October 7, 2019
Adopted Date: September 25, 2019

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I. **BY THE COMMISSION**

A. **Statement**

1. On February 27, 2019, the Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) by Decision No. C19-0197 to amend the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules). The proposed amendments revise the Electric Rules in six areas: (1) the rules governing Electric Resource Planning (ERP Rules) at 4 CCR 723-3-3600, *et seq.*; (2) the Renewable Energy Standard Rules (RES Rules) at 4 CCR 723-3-3650, *et seq.*; (3) the Net Metering Rules at 4 CCR 723-3-3664; (4) the rules governing Community Solar Gardens (CSG Rules) at 4 CCR 723-3-3665; (5) the provisions for utility purchases from Qualifying Facilities at 4 CCR 723-3-3900, *et seq.*; and (6) the Interconnection Procedures and Standards at 4 CCR 723-3-3667.

2. Through this Decision, we solicit written comments from interested participants and schedule an additional day of public comment hearing on Tuesday, October 29, 2019.¹ As discussed below, the principal purpose of this opportunity for written and oral comment is to collect additional information and to receive comments on further revisions to the Electric Rules regarding the implementation of certain legislation enacted from the 2019 General Assembly, principally Senate Bill (SB) 19-236. We also aim to receive comments on the policy goals of

¹ Upon advanced request, the Commission can prepare accommodations to provide auxiliary services for members of the public who are deaf, hard-of-hearing, or speech disabled. Members of the public requesting auxiliary services should/shall provide a written request at <https://www.colorado.gov/pacific/dora/puc> via the accommodation requests link. For more information, contact Holly Bise at holly.bise@state.co.us, (303) 894-2024 (voice-only phone) or (720) 583-9878 (video phone).

Governor Jared Polis set forth in the “Polis Administration’s Roadmap to 100% Renewable Energy by 2040 and Bold Climate Action” (Roadmap) as they relate to the Commission’s Electric Rules.

3. In addition, we seek information from the Colorado Air Quality Control Commission (AQCC) within the Colorado Department of Public Health and Environment (CDPHE) regarding the AQCC’s promulgation of rules and regulations necessary to ensure progress toward a 26 percent reduction in statewide greenhouse gas pollution by 2025, a 50 percent reduction by 2030, and a 90 percent reduction by 2050, relative to 2005 statewide levels, pursuant to House Bill (HB) 19-1261.

4. Finally, we sever from this rulemaking proceeding certain proposed rule revisions relating to the CSG Rules and the Interconnection Procedures and Standards. As explained below, the Commission will open a rulemaking proceeding for the CSG Rules and one for the Interconnection Procedures and Standards, by separate decisions, to address all modifications to those sections within the Electric Rules. As discussed below, we find that severing these rule areas adds potential efficiencies.

B. Discussion

5. As explained in Decision No. C19-0197, the Commission found it necessary to open this rulemaking to examine potential changes to the Electric Rules for several reasons. The Commission had issued multiple decisions in preceding years indicating that certain sections of the Electric Rules warranted examination. The need for rule changes was further confirmed through the stakeholder outreach conducted by Staff of the Colorado Public Utilities Commission (Staff) in Proceeding No. 17M-0694E (Stakeholder Outreach Proceeding). We agreed with the participants in the Stakeholder Outreach Proceeding that a comprehensive

rulemaking is appropriate due to significant changes in the Colorado market for electricity services, the available cost-effective technologies, and various economic and environmental interests.

6. This rulemaking was also intended to satisfy the requirements of SB 18-009, codified at § 40-2-130, C.R.S.,² that requires the Commission to adopt rules allowing the installation, interconnection, and use of energy storage systems. SB 18-009 requires the Commission to incorporate the following principles into its Electric Rules: (1) customers have the right to install and interconnect energy storage systems without unnecessary restrictions or rules and without discriminatory rates or fees; (2) utility approvals and interconnection reviews shall be simple, streamlined, and affordable for customers; (3) utilities shall not require a meter in addition to a single net energy meter for the purpose of monitoring the energy storage system; and (4) net metering, as described in § 40-2-124, C.R.S., is neither altered or superseded.

7. Decision No. C19-0197 schedule a five-day rulemaking hearing beginning on April 29, 2019 and concluding on May 3, 2019.

8. Prior to the scheduled hearings, written comments were submitted by: Public Service Company of Colorado (Public Service); Black Hills Colorado Electric, LLC (Black Hills); Tri-State Generation and Transmission Association, Inc. (Tri-State); the Colorado Rural Electric Association (CREA); Holy Cross Electric Association, Inc.; Colorado Energy Consumers; Energy Outreach Colorado; the Colorado Energy Office (CEO); the Colorado Independent Energy Association (CIEA); Interwest Energy Alliance (Interwest); Western Resource Advocates (WRA); Sierra Club; the Southwest Energy Efficiency Project (SWEET);

² Colorado Revised Statute (C.R.S.) citations include 2018 and 2019 versions of the C.R.S. Commenters should use the 2019 C.R.S. with the most recent updates from the General Assembly.

Vote Solar; Colorado Solar and Storage Association (COSSA) and the Solar Energy Industries Association (SEIA); GRID Alternatives Colorado, Inc. (GRID); Southwest Generation Operating Company, LLC (SWGen); Colorado Renewable Energy Society (CRES); Rocky Mountain Environmental Labor Coalition (RMELC) and the Colorado Building and Construction Trades Council, AFL-CIO (CBCTC); the City of Boulder; San Juan County; The Western Way; the Institute for Policy Integrity at New York University School of Law; and various individuals.

9. Decision No. C19-0197 foresaw the possibility of significant statutory changes that would require additional changes to Electric Rules.³ During the weeklong hearing, the Commission instructed the participants to address additional rule changes that were necessary as a result of new legislation.⁴ The Commission also made statements at the hearing that additional hearings could be scheduled in this Proceeding by a decision other than a supplemental NOPR published in *The Colorado Register*.⁵

10. As discussed throughout this Decision, three bills enacted by the 2019 General Assembly affect the modifications to the Electric Rules to be accomplished in this rulemaking.

11. First, SB 19-236, the Commission's "Sunset Bill," makes numerous changes and additions to the statutes in Title 40 of the C.R.S. that govern the Commission and the regulated utilities in Colorado. With respect to electric utilities, among its revisions throughout Title 40, the provisions in SB 19-236:

- Modify the incentives to investor-owned utilities to develop and own renewable energy resources;

³ The Commission adopted the decision opening this Proceeding and issuing the NOPR in special Commissioners' deliberations meetings on December 6 and 10, 2018 following the November 6, 2018 general election.

⁴ Proceeding No. 19R-0096E, Hearing Transcript, April 29, 2019, pp 6-7.

⁵ Proceeding No. 19R-0096E, Hearing Transcript, May 30, 2019, p. 90.

- Require, or offer as an option, a Clean Energy Plan to be filed as an ERP to reduce carbon dioxide emissions by 80 percent by 2030 as compared to 2005 levels;
- Modify the use of “best value employment metrics” regarding Colorado labor in resource acquisitions and pollution control projects;
- Require the promulgation of rules for distribution planning;
- Require investor-owned utilities to file workforce transition plans in ERPs or other application filings for accelerated retirement of generation facilities;
- Require the promulgation of rules applicable to Tri-State for electric resource planning;
- Confirm a utility customer’s right to install customer-sited retail renewable distributed generation;
- Modify methods for utilities to provide notice to their customers of pending rate changes;
- Require a Commission-led study of financial performance-based incentives and metrics;
- Require a survey of retail rates;
- Require an investigation into the potential costs and benefits of joining organized markets;
- Require the use of specific costs for carbon dioxide emissions in various proceedings including ERPs;
- Modify time limits for certain Commission decisions; and
- Introduce “Colorado Energy Impact Bonds” to recover, finance, or refinance certain costs associated with retiring certain generation resources and to assist affected workers and communities.

12. Second, HB 19-1261 requires the AQCC to promulgate implementing rules and regulations to cause, at a minimum, a 26 percent reduction in statewide greenhouse gas pollution by 2025, a 50 percent reduction by 2030, and a 90 percent reduction by 2050, relative to 2005 statewide levels. Such significant emission reductions will have a substantial impact on the electric utilities in Colorado and thus require further examination of the Electric Rules, including the six specific areas of interest already identified in the NOPR.

13. Third, HB 19-1003 modifies § 40-2-127, C.R.S., by: increasing the size limit permitted for CSGs; expanding the options for locating CSGs eligible to provide service to utility customers; and allowing for further consideration of the treatment of the renewable energy credits (RECs) at the time they are generated by the CSGs.

14. Post-hearing comments were submitted by many of the rulemaking participants who attended the hearing. Written post-hearing comments were filed by: Public Service; Black Hills; Tri-State; CREA; the Colorado Office of Consumer Counsel (OCC); CEO; CIEA; Interwest; SWEEP; Vote Solar; COSSA and SEIA; GRID.; SunShare LLC; SWGen; CRES; RMELC and CBCTC; the City of Golden; Leslie Glustrom; and Walter Sharp.

15. The post-hearing comments acknowledged that some of the energy-related bills from the 2019 General Assembly required further modification to certain provisions of the Electric Rules already subject to review in this Proceeding. Certain participants also recognized that entirely new provisions to the Electric Rules may also be necessary, particularly with respect to the use of carbon costs in a number of resource-related proceedings before the Commission in accordance with SB 19-236. While some of the participants provided high level comments about the new statutes and their relationship to this rulemaking, there were no significant submissions of proposed redline rule changes to implement the new statutory provisions. Notwithstanding the three bills described above, several of the rulemaking participants, including utilities and non-utilities, conclude that “no more process” is needed in this rulemaking on a number of issues and that the Commission does not need to re-notice further proposed modifications to the Electric Rules by a supplemental NOPR published in *The Colorado Register*.

16. In its post-hearing comments filed on May 31, 2019, Public Service stated that it “looks forward to providing additional comments as necessary following the re-noticing of the

NOPR to take into account these statutory changes.”⁶ With respect to SB 19-236, Public Service acknowledged that the new legislation provides a process to file a Clean Energy Plan to achieve an 80 percent carbon emission reduction by 2030 through an ERP with a resource acquisition period that extends through 2030.⁷ Public Service stated, however, that it was unnecessary for the Commission to develop a standalone set of ERP Rules to effectuate the explicit and detailed statutory process for a Clean Energy Plan, particularly given that this process governs only its next ERP filing.⁸

17. Black Hills stated in its post-hearing comments filed on May 31, 2019, that the legislative changes made by the 2019 General Assembly “do not substantially implicate the Commission’s proposed rules for these subject matters such that further efforts are necessary prior to finalizing their applicable rules.”⁹ However, in a subsequently filed pleading in another proceeding, Black Hills raised questions about the timing of AQCC’s promulgation of rules to achieve new statewide greenhouse gas pollution reduction targets and the additional time Black Hills will need to understand its alternative options under SB 19-236.¹⁰

18. In its post-hearing comments filed on May 31, 2019, Tri-State argued that the proper and most efficient means to develop and promulgate new ERP Rules applicable to Tri-State would be in a new rulemaking proceeding.¹¹ Tri-State filed contemporaneously with its post-hearing comments a Petition for Approval of a Variance to Extend the Filing of Its Next Electric Resource Plan and a Request for Pre-Rulemaking Proceeding in Proceeding

⁶ Public Service Post-Hearing Comments, p. 8.

⁷ Public Service Post-Hearing Comments, p. 6.

⁸ *Id.*, pp. 6-7.

⁹ Black Hills Post-Hearing Comments, p. 3.

¹⁰ Black Hills’ Petition for Waivers and Variances to Delay the Filings of Its Next Electric Resource Plan and Renewable Energy Standard Plan filed on August 26, 2019 in Proceeding No. 19V-0463E.

¹¹ Tri-State Post-Hearing Comments, p. 2.

No. 19V-0311E. Tri-State argued that an extension from October 31, 2019 to December 31, 2020 for its next ERP filing would allow sufficient time for: (1) both Tri-State and the Commission to engage with stakeholders; (2) the Commission to conduct a rulemaking proceeding focused on ERP Rules applicable only to Tri-State; (3) Tri-State to obtain and consider stakeholder input in connection with development of its next resource plan; and (4) Tri-State to develop and file its resource plan pursuant to the new ERP Rules applicable to Tri-State. In addition to requesting a waiver from Rule 3605, Tri-State asked that the Commission open a miscellaneous proceeding for the purpose of soliciting input and information concerning resource planning rules specific to Tri-State consistent with SB 19-236. Tri-State argued that its proposed approach was consistent with the statutory considerations required in § 40-2-134, C.R.S.¹²

19. At our September 25, 2019 weekly meeting, Staff reported on its work to prepare us in crafting further revisions to the Electric Rules based upon consideration of the written and oral comments submitted to date and an analysis of the recently enacted statutory changes.

20. As explained below, we conclude that additional comments and at least another day of hearing is necessary in this proceeding to address certain requirements in SB 19-236 that are within the scope of this rulemaking, certain related provisions in HB 19-1261, and related policies set forth in the Polis Administration's Roadmap. The information obtained through this additional process will enable us to complete the rule-by-rule analysis necessary to propose

¹² By Decision No. C19-0629 issued on July 24, 2019 in Proceeding No. 19V-0311E, the Commission waived the requirement that Tri-State file its next ERP on or before October 31, 2019. However, the Commission denied Tri-State's request to set December 31, 2020 as the deadline for Tri-State's next ERP filing and determined that the Commission instead will establish a filing deadline for Tri-State's next ERP by promulgating rules governing ERP application filings from Tri-State pursuant to the newly enacted § 40-2-134, C.R.S., from SB 19-236. Decision No. C19-0651, issued July 31, 2019, opened Proceeding No. 19R-0408E separate from this Proceeding to craft new ERP Rules applicable to Tri-State.

further revisions to the Electric Rules in this Proceeding (with the exception of the CSG Rules and the Interconnection Procedures and Standards, which each shall be addressed in new, separate rulemaking proceedings).

21. We hold to our intention to release a second version of redlined rules. However, such additional rule revisions will be crafted after the opportunity to receive additional written comments and the public comment hearing scheduled by this Decision. Consistent with our statements at the hearing concluded on May 3, 2019, the Commission will determine at a later date whether it is necessary to provide notice of any further proposed rule changes through the publication of a supplemental NOPR in *The Colorado Register*.

C. SB 19-236: Cost of Carbon Dioxide Emissions

22. SB 19-236 enacts new statutory provisions in § 40-3.2-106, C.R.S., that require the utilities to consider the cost of carbon dioxide emissions when determining the cost, benefit, or net present value of any plan or proposal submitted in certain proceedings before the Commission.

23. Section 40-3.2-106(1), C.R.S., lists the specific proceedings in which the cost of carbon dioxide must be applied, including: electric resource plans; other applications addressing the acquisition of new electric generation resources; applications for approval of the retirement of existing utility generation; filings related to the RES statute, or § 40-2-124, C.R.S.; filings related to electric utility demand-side management programs pursuant to § 40-3.2-104, C.R.S.; and plans for transportation electrification or other forms of “beneficial electrification.”

24. Section 40-3.2-106(4), C.R.S., sets forth specific requirements for the Commission's calculation of the cost of carbon dioxide emissions. The Commission must use the most recent assessment of carbon dioxide developed by the federal government. The Commission also must modify the cost of carbon dioxide emissions based on escalation rates equal to or greater than the central value escalation rates established in the 2016 *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866*. Starting in 2020, the Commission must use a social cost of carbon dioxide of not less than \$46.00 per short ton of emissions.¹³

25. Section 40-3.2-106(6)(a), C.R.S., defines the term "beneficial electrification" to mean:

[A] utility's change in the energy source powering an end use from a nonelectric source to an electric source, including transportation, water heating, space heating, or industrial processes, if the change: (I) Reduces system costs for the utility's customers; (II) Reduces net carbon dioxide emissions; or (III) Provides for a more efficient utilization of grid resources.

26. We propose a new section of the Electric Rules to implement the statutory provisions set forth in §§ 40-3.2-106(1) and 40-3.2-106(4), C.R.S., as these requirements connect to other provisions in the Electric Rules and are not exclusive to the ERP Rules. We also expect that it is necessary to modify Rule 3001, the series of definitions applicable to the entire set of

¹³ Section 40-3.2-106(4), C.R.S., also states: "Notwithstanding the discount rate used to develop the social cost of carbon dioxide value over the planning period, the commission shall continue to discount any net present value analysis of any optimized resource portfolio in the electric resource planning process using discount rates that the commission deems appropriate." This provision specifically relates to the Commission's ERP Rules and will be addressed by separate decisions to be issued in this rulemaking with respect to further proposed modifications to the ERP Rules. Likewise, §§ 40-3.2-106(2) and 40-3.2-106(3), C.R.S., relate specifically to the ERP Rules and will be addressed by separate decision.

Electric Rules, to include the term “beneficial electrification” as defined in § 40-3.2-106(6), C.R.S.¹⁴

27. Attachment A to this Decision sets forth proposed rules to implement §§ 40-3.2-106(1), 40-3.2-106(4), and 40-3.2-106(6)(a), C.R.S. We solicit comments on the proposed rule language.

28. We also acknowledge that this Decision does not address all of the new provisions in § 40-3.2-106, C.R.S. For example, §§ 40-3.2-106(2) and 40-3.2-106(3), C.R.S., relate specifically to the ERP Rules, and we intend to address further proposed rule revisions to implement those new statutory requirements within the series of ERP Rules by separate order following the hearing scheduled by this Decision. For clarity, commenters are not prohibited from discussing or proposing revisions for consideration regarding these, or other, changes to the statutes that we do not also provide redlined rule suggestions at this time.

D. HB 19-1261: Statewide Greenhouse Gas Pollution Reduction Goals

29. The NOPR issued in February 2019 introduced “potential emission reductions” as a discrete potential driver of a utility’s resource need to be addressed by an ERP. The proposed rule change presciently anticipated the increasing dominance of carbon emission reductions in ERP and other resource-related proceedings.

30. HB 19-1261, as codified at §§ 25-7-102, 25-7-103, and 25-7-105, C.R.S., requires the AQCC to promulgate implementing rules and regulations necessary over time to ensure progress toward statewide, cross-sector emission reduction goals set forth in § 25-7-102(2)(g), C.R.S. The goals are, at a minimum: a 26 percent reduction in statewide greenhouse gas

¹⁴ Section 40-3.2-106(5), C.R.S., addresses “nonenergy benefits” for beneficial electrification programs. At this point in time, the Commission is not promulgating rules specific to such programs.

pollution by 2025; a 50 percent reduction by 2030; and a 90 percent reduction by 2050. The reductions are measured relative to 2005 statewide levels.¹⁵

31. With respect to the contributions of the electric utilities toward meeting such goals, HB 19-1261 cross-references the Clean Energy Plans addressed in detail in SB 19-236. Specifically, § 25-7-105(e)(VIII)(B), C.R.S., encourages the development of Clean Energy Plans that require emissions caused by Colorado retail electricity sales to decrease 80 percent by 2030 relative to 2005 levels. Notably, § 25-7-105(1)(e)(VIII)(A), C.R.S., requires the AQCC to consult with the Commission in carrying out its responsibilities including the promulgation of the greenhouse gas emission reduction rules on the cost of electricity, the reliability of electric service, technology developments in electricity production, and beneficial electrification.

32. Public Service must file a Clean Energy Plan as its next ERP pursuant to SB 19-236.¹⁶ Public Service has also informed the Commission in Proceeding No. 19V-0234E that it will not be prepared to file its Clean Energy Plan until March 2021.¹⁷ By Decision No. C19-0510, issued on June 14, 2019 in Proceeding No. 19V-0234E, the Commission waived the October 31, 2019 filing deadline for Public Service's next ERP pursuant to the ERP Rules currently in effect. However, the Commission denied Public Service's request to set the next

¹⁵ SB 19-096, also enacted into law following the 2019 General Assembly, requires the AQCC to adopt rules by June 1, 2020 requiring greenhouse gas-emitting entities to monitor and publicly report their emissions to facilitate the implementation of the rules to achieve the emission reduction goals set forth in HB 19-1261. SB 19-096 further requires a recalculation of Colorado's 2005 emissions to serve as the baseline for measuring progress against the reduction goals and sets July 1, 2020 as the deadline for publishing a NOPR for rules to implement the measures to meet the emission reduction goals.

¹⁶ Section 40-2-125.5(4)(a), C.R.S., states: "The first electric resource plan that a qualifying retail utility files with the commission after January 1, 2020, must include a clean energy plan that will achieve the clean energy target set forth in subsection (3)(a)(I) of this section..." In accordance with § 40-2-125.5(2)(c)(I), C.R.S., defines a qualifying retail utility as a retail utility serving more than 500,000 customers or "any other electric utility that opts in pursuant to subsection (3)(b)," which simply requires notification to the Commission.

¹⁷ Public Service suggests that it is unnecessary to develop a standalone set of ERP Rules that will specifically govern its Clean Energy Plan filing. Public Service Post-Hearing Comments, pp. 6-7

ERP filing deadline to no later than March 31, 2021. The Commission concluded that it is necessary to determine in this rulemaking, upon consideration of the new legislation, when Public Service's next ERP should be filed for approval by the Commission pursuant to the modified ERP Rules.

33. Black Hills may file a Clean Energy Plan as its next ERP pursuant to SB 19-236. Black Hills nonetheless will be subject to the statewide greenhouse gas emission reduction rules promulgated by the AQCC pursuant to HB 19-1261 if it does not file a Clean Energy Plan. In its petition for a waiver from the October 31, 2019 filing deadline for its next ERP pursuant to the ERP Rules currently in effect, Black Hills explains that:

[I]t is not yet known what rules the [AQCC] will promulgate to achieve new statewide greenhouse gas pollution reduction targets, how those rules will impact Black Hills, and whether Black Hills' ERP and RES Plan will need to model and reflect the AQCC requirements. There is no indication that the AQCC's rules on this subject will be implemented any time in the near future, and the Company will require sufficient time to consider and potentially reflect any eventually adopted rules. Moreover, Black Hills requires additional time to fully vet its options under Senate Bill 19-236, whether there are alternative options for Black Hills to further pursue Colorado's carbon reduction goals, and potentially craft an appropriate ERP and RES Plan to comply with the "Clean Energy Plan" process of Senate Bill 19-236.¹⁸

34. Tri-State has similarly stated in a recent filing with the Commission that it also is evaluating the emission reduction requirements of HB 19-1261. While Tri-State has not made a decision whether to "opt-in" to filing a Clean Energy Plan pursuant to SB 19-236, it has already concluded that HB 19-1261 will have major impacts on the operation, planning, retirement, and costs of Tri-State's existing and future electric resources.¹⁹

¹⁸ Black Hills' Petition for Waivers and Variances to Delay the Filings of its Next Electric Resource Plan and Renewable Energy Standard Plan filed on August 26, 2019 in Proceeding No. 19V-0463E at ¶ 7. The Commission has not ruled on the petition as of the Mailed Date of this Decision.

¹⁹ Initial Comments on Proposed Rules and Responses to Commission Questions filed by Tri-State on September 11, 2019 in Proceeding No. 19R-0408E.

35. SB 19-236 nonetheless directs the Commission to promulgate new rules that require wholesale electric cooperatives to submit an application for approval of an integrated resource plan or ERP. By Decision No. C19-0651, issued on July 31, 2019, the Commission issued a NOPR in Proceeding No. 19R-0408E to promulgate ERP Rules applicable to Tri-State. Unlike the Commission's currently effective ERP Rules which require Tri-State to file reports pursuant to Rule 3605, the proposed rules under review in Proceeding No. 19R-0408E include both Phase I and Phase II processes similar to the ERP application proceedings for Public Service and Black Hills.

36. ERP application proceedings have historically served as the primary vehicles for examining cost-effective emission reduction strategies. For decades, the Commission has considered the cost and impacts of carbon emissions in particular. The recently enacted legislation from the 2019 General Assembly will cause carbon emission reductions to dominate the utilities' future ERP application proceedings, eclipsing both the RES and avoided fuel costs as the drivers of resource needs and resource selection.

37. Information from the AQCC about its anticipated timelines for the implementation of HB 19-1261 is thus critical for the Commission to determine when Public Service,²⁰ Black Hills, and Tri-State will be in a position to file ERPs that are responsive to the carbon reduction goals established pursuant to HB 19-1261 or that are otherwise consistent with the requirements of a Clean Energy Plan. Because the scope of ERP proceedings for Tri-State are greatly expanded pursuant to SB 19-236, it is also now necessary for the Commission to examine the potential for staggering ERP filing deadlines for the three utilities to ensure the

²⁰ We also are interested in knowing from Public Service about the degree to which the AQCC's implementation of HB 19-1261 may have an impact on the utility's ability to file a Clean Energy Plan as required by SB 19-236.

efficient use of Commission resources and to preserve the opportunities for stakeholders to participate in their complicated and often lengthy ERP proceedings.

38. We therefore seek from AQCC and CDPHE information about its projected timeline for promulgating the rules and regulations to achieve the minimum reductions in statewide greenhouse gas pollution and the specific goals that will apply to the state's electric utilities that elect not to file a Clean Energy Plan as their next ERP. We request that a representative of AQCC appear at the hearing scheduled on October 29, 2019. We also encourage a written filing, preferably submitted on or before October 21, 2019, so that we can prepare follow-up questions for the representative at the public comment hearing, as necessary.

E. Roadmap: Energy and Demand Forecast Scenarios

39. In its post-hearing comments filed on May 31, 2019, the OCC attached a copy of the Polis Administration's Roadmap. The OCC explains that the Roadmap was handed out at the bill signing ceremony for SB 19-236 on May 30, 2019.²¹ The Roadmap describes how Governor Polis and his administration intend to achieve 100 percent renewable energy by 2040 to address climate change, drive innovation, and harness consumer savings and economic benefits from a clean energy economy.²²

40. The Roadmap addresses at least four types of assumptions that could have an impact on an electric utility's electric energy and demand forecasts. The Roadmap:

- Highlights an electric utility customer's entitlement to install retail distributed energy resources (DER) at their homes and businesses, with all customers having the ability (1) to adopt "cheaper" 100% renewable energy before 2040 and (2) to "export unused electricity to the utility system";²³

²¹ OCC Post-Hearing Comments, p. 12.

²² Roadmap, p. 1.

²³ *Id.*, p. 4.

- Supports achievement of 2 percent demand side management (DSM) goals (p. 5);²⁴
- Points to widespread consumer adoption of electric vehicles (EVs) and a Zero Emission Vehicles standard;²⁵ and
- References a blueprint for building electrification, with “clean electricity” as an alternative to burning fossil fuels in buildings as a means to reduce emissions.²⁶

41. In the NOPR, the Commission proposed only limited changes to Rule 3606. Electric Energy and Demand Forecasts. The informational requirements established by the rule remain essential, because the utilities’ ERPs serve as the primary proceedings in which the Commission ensures that they acquire sufficient resources to meet their retail customer needs reliably, consistent with approved cost-effective plans to acquire new and replacement resources.

42. Forecasts of energy sales and customer demands are prone to uncertainty, so Rule 3606(b) requires the utility to prepare a range of forecasts that includes a “base case” and “high and low forecast scenarios ... based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.”

43. The Roadmap and the participant comments regarding energy efficiency, demand, response, retail renewable distributed generation, and other factors that have impacts on energy sales and demand forecasts suggest further examination of potential changes to Rule 3606 may be in order. We therefore solicit suggestions for further modifying the required scenarios for energy and demand forecasts in Rule 3606(b) based on the four factors identified in the Roadmap. We therefore seek comment on the following questions:

- How should the utility’s energy and demand forecasts reflect: (1) increased installations of Distributed Energy Resources (DER) and increased exports to the utility’s grid from DER; (2) more aggressive DSM goals for energy savings and

²⁴ *Id.*, p. 5.

²⁵ *Id.*, pp. 6-7.

²⁶ *Id.*, p. 10.

demand reductions; (3) widespread adoption of EVs; and (4) the potential for building electrification?

- How do these factors from the Roadmap directly tie to statutory requirements, including the legislative changes enacted from the 2019 General Assembly?

44. CEO is within the Office of the Governor and, based on the Roadmap, is also responding to the legislative direction to reduce greenhouse gas emissions established by HB 19-1261, we encourage CEO to take the lead on developing and presenting a consensus view on this proposal or alternative rule changes, either within Rule 3606 or elsewhere in the ERP Rules, that address the Roadmap generally and the four types of assumptions that could have an impact on electric utilities electric energy and demand forecasts.²⁷

F. Roadmap: Plans for Achieving 100 Percent Renewable Energy by 2040

45. The Roadmap also ties the Polis' Administration's "down payment on our commitment to 100% renewable energy by 2040" to the goal of reducing greenhouse pollution by 80 percent by 2030, which is the emission reduction target for a utility's Clean Energy Plan pursuant to SB 19-236.²⁸

46. In light of the Polis Administration's policy goal for 100 percent renewable energy by 2040, we seek comment on the following questions:

- Should the utilities provide information in their initial ERP submissions under Rule 3404 regarding future possible resource portfolios that track with the Polis Administration's goal to achieve 100 percent renewable energy by 2040?
- Should the existing Rule 3604(k) portfolio be retained and modified to define "an alternative plan" that includes 100 percent renewable energy resources by 2040?

²⁷ On March 11, 2019, CEO filed a motion to modify the procedural schedule in this Proceeding, arguing for additional time for participants to try to reach at least partial stakeholder consensus on some issues raised by the NOPR. By Decision No. C19-0256-I, issued on March 21, 2019, the Commission reminded the rulemaking participants that they may assemble and work together on consensus proposals through the time period concluding with a scheduled hearing. The Commission also reiterated that previously scheduled hearings may be continued in the event that the additional rule revisions are required by new legislation.

²⁸ Roadmap, p. 2.

- Should a plan that includes 100 percent renewable energy resources by 2040 serve as the “base case portfolio of resources” required pursuant to § 40-32-106, C.R.S.?
- Should a portfolio of 100 percent renewable energy resources by 2040 be required as a portfolio presented in the utility’s 120-Day report?

47. We again encourage the CEO to take the lead on developing and presenting a consensus view on rule changes that address the policy goal for 100 percent renewable energy by 2040. We also seek comments addressing how this policy goal ties to statutory requirements, including the legislative changes enacted from the 2019 General Assembly.

G. SB 19-236: Workforce Transition Planning

48. Section 40-2-133, C.R.S., enacted by SB 19-236, requires investor-owned electric utilities to include a workforce transition plan as part of an application filing with the Commission for approval of either an ERP or a proposed early retirement of an electric generating facility. The statute primarily sets forth the information that must be included in the filing and does not require the Commission to enter any specific findings or take other actions with respect to the information set forth in the “plan.”²⁹

49. The information to be included in a workforce transition plan include:

- The number of employed workers employed (including contractors) at the facility to be retired, including all workers that directly deliver fuel to the utility;
- The total number of workers whose jobs will be retained and whose jobs will be eliminated;
- With respect to the jobs that will be eliminated, the number of workers (total and by job classification): whose employment will end without being offered other employment; who will retire as planned, be offered early retirement, “or leave on their own;” who will be retained by being transferred to another facility or offered other employment; and who will be retained to work in a new job classification; and

²⁹ HB 19-1314, titled the Just Transition Support for Coal-Related Jobs, addresses the substantive effects of coal plant closures on workers and communities and also addresses utility workforce transition plans. Section 8-83-505, C.R.S., does not apply, however, to an investor-owned utility that has submitted a workforce transition plan pursuant to § 40-2-133, C.R.S.

- If the utility is replacing the facility being retired with a new electric facility, the number of workers from the retired facility who will be employed at the new facility as well as the jobs at the new facility that will be outsourced to contractors or subcontractors.

50. We propose a new section of the Electric Rules to implement the new statutory provisions set forth in § 40-2-133, C.R.S., since these requirements are not exclusive to the ERP Rules. Attachment B to this Decision sets forth proposed rules to implement § 40-2-133, C.R.S. We solicit comments on the proposed rule language. We also seek comment on the following questions:

- Should the Commission promulgate additional rules that describe how the information required in the workforce transition plan will be considered in the application proceeding in which such plans are required?
- Should the Commission promulgate additional rules that address costs for assistance to affected workers and communities for which a utility may seek approval for recovery from ratepayers?³⁰
- Should the Commission promulgate a rule that requires the workforce transition plan submitted with the investor-owned utility's application to be submitted to the "Just Transition Office" created by HB 19-1314 as well as to the affected communities?

H. HB 19-1003: Community Solar Garden Rules

51. In the NOPR issued on February 27, 2019, the Commission moved the rules governing CSGs out of the RES Rules to a new section within the Electric Rules.³¹ The CSG Rules implement § 40-2-127, C.R.S.

52. Based on comments received in the Stakeholder Outreach Proceeding, the Commission proposed to expand the definition of an eligible low-income CSG subscriber to include not only residential customers but also operators of affordable housing. The

³⁰ Provisions in SB 19-236 allow for the costs of assistance to affected workers and communities, as approved by the Commission, to be recovered, financed, or refinanced through "Colorado Energy Impact Bonds."

³¹ Attachment E to Decision No. C19-0197 shows the proposed CSG Rules in their new location with the redlining to indicate changes to existing provisions presently found in the Commission's RES Rules.

Commission also proposed to add various new provisions to the CSG Rules to allow a CSG subscriber to contribute billing credits to a low-income energy assistance organization. The Commission further solicited feedback on a new provision that would require at least half of the new CSGs to target residential, agricultural, and small commercial customers consistent with the stated intent of the CSG statute in § 40-2-127(1), C.R.S.

53. The Commission devoted the afternoon of the hearing on April 30, 2019 to the proposed changes to the CSG Rules after identifying two particular topic areas for discussion from the filed written comment: (1) the utility's acquisition of CSG resources beyond the amounts set forth in a Commission-approved RES plan; and (2) the use of competitive bidding to procure CSG resources and the resulting subscriber mix (issues which directly relate to the controversial topic of "negative prices for RECs" bid into the requests for proposals).

54. HB 19-1003, enacted into law following the April 30, 2019 hearing, modifies § 40-2-127, C.R.S., in four ways:

- The existing 2 MW size limit for CSGs is increased to allow CSGs of up to 5 MW;
- The Commission may allow, by rule, CSGs up to 10 MW on or after July 1, 2023;
- The requirement that a CSG subscriber be located in the same county or an adjacent county as the physical CSG is removed however, the CSG still must be within the service territory of the utility; and
- The Commission must consider whether a utility shall purchase all of the electricity and RECs generated by the CSG or whether a subscriber may, upon becoming a CSG subscriber, choose either to retain or to sell to the utility the subscriber's RECs

55. Based on our review of these new statutes and the comments provided in this Proceeding, we conclude that the CSG Rules are severable from this larger rulemaking effort and

a new separate rulemaking to modify the CSG Rules will allow for the new statutory provisions to take effect by rule sooner than if they remained in the rulemaking in this Proceeding.

56. By separate decision, the Commission will issue a new NOPR to revise the rules governing CSGs for the purpose of expediting the rule modification required to implement the provisions of HB 19-1003.³²

I. Interconnection Procedures and Standards

57. The NOPR issued in this proceeding also separated the Interconnection Rules from the RES Rules.³³ In Decision No. C19-0197, the Commission explained that the proposed changes to the Interconnection Rules were intended to: (1) introduce new rule provisions that address energy storage pursuant to SB 18-009; (2) consolidate rules that apply generally to all interconnection requests and separate out specific provisions that apply only to the Level 1 Process for certified inverter-based installations no larger than 10 kW; and (3) achieve various other modifications to bring the rules up-to-date with recent Federal Energy Regulatory Commission policies and IEEE standards. The Commission noted that most of the stakeholders active in the Stakeholder Outreach Proceeding agreed the Commission should endeavor to update the interconnection procedures and standards in existing Rule 3667.

³² At its September 25, 2019 weekly meeting, the Commission adopted a decision opening a new rulemaking proceeding and issuing a notice of proposed rulemaking to modify the provisions in the Electric Rules that govern Community Solar Gardens.

³³ Attachment F to Decision No. C19-0197 shows the proposed Interconnection Procedures and Standards in their new location with the redlining to indicate changes to existing provisions presently found in the Commission's RES Rules.

58. The Commission devoted the hearing on May 3, 2019 to the proposed changes to the Interconnection Rules. Staff of the Commission later hosted a technical workshop on May 17, 2019 to facilitate further discussion about the proposed revisions to the Interconnection Rules and to assist the participants in the preparation of additional written comments and alternative formulations of rule changes.

59. In its post-hearing comments, Public Service states that it continues to support the Commission's proposed Interconnection Rules as set forth in the NOPR.³⁴ Public Service argues that major modifications to these rules, such as new enforcement mechanisms, penalties and incentives, are not necessary and should not be based upon anecdotal information.

60. Black Hills likewise states that the Commission's proposed rules have adequately addressed necessary technical updates and party concerns.³⁵ Black Hills offers, however that "[t]o the extent it is appropriate for public utilities to address additional policy issues ... such issues are better suited in tariffs, as opposed to the Commission's rules."³⁶ Black Hills argues that tariff provisions are a better alternative for certain policy issues "as they permit for customization to specific utilities based on the size of the utility and the issues most relevant to the utility."³⁷

61. Along these same lines on May 31, 2019, CREA identified in its post-hearing comments specific aspects of the proposed Interconnection Rules that "may have substantially different impacts on cooperative electric associations as compared to Colorado's larger

³⁴ Public Service Post-Hearing Comments, p. 23.

³⁵ Black Hills Post-Hearing Comments, pp. 3-4.

³⁶ *Id.*

³⁷ *Id.* at p. 4

utilities.”³⁸ CREA argues that the co-ops should be afforded flexibility in determining reasonable interconnection fees based on their actual costs and the needs of their member-owners. Likewise, the interconnection timelines applicable to the co-ops should be reasonable in light of personnel and resource constraints.

62. In contrast to the utilities, COSSA, SEIA, Vote Solar, and WRA found the proposed Interconnection Rules in the NOPR as falling short of current standards. WRA and Vote Solar argue that significant rule changes are needed “to modernize the interconnection rules” from the proposed redline version in the NOPR including the new provisions in the NOPR intended to implement SB 18-009.³⁹ WRA adds that more proposed rule changes and more comments are appropriate regarding the Interconnection Rules.⁴⁰ COSSA and SEIA “continue to assert that Colorado’s interconnection rules have fallen behind best practices developed in other states and the time has come to holistically update the rules.”⁴¹ COSSA and SEIA seek a more immediate resolution of the issues surrounding the interconnection of storage resource pursuant to SB 18-009 and also additional workshops on broader interconnection reforms “to craft updated rules in 2020.”⁴²

63. We conclude, based on our review of the comments, that the Interconnection Rules are also severable from this larger rulemaking effort and a new separate rulemaking to modify the Interconnection Procedures and Standards will allow for the statutory provisions from SB 18-009 to be implemented more efficiently. Due to the technical nature of the

³⁸ CREA Post-Hearing Comments, pp. 1-2.

³⁹ WRA and Vote Solar Joint Post-Hearing Comments on Interconnection Rules, p. 2.

⁴⁰ WRA Post-Hearing Comments, p. 39.

⁴¹ COSSA and SEIA Post-Hearing Comments, pp. 26-28.

⁴² *Id.* at p. 30.

Interconnection Rules and their broad applicability across the electric utilities in Colorado, we determine that a separate rulemaking process also will serve to bring the rules up to industry standards most effectively.

64. By separate decision, the Commission will issue a NOPR to revise the Interconnection Procedures and Standards.

J. Additional Day of Hearing and the Filing of Written Comments

65. The Commission will conduct an additional day of hearings on October 29, 2019. The focus of the hearing will be topic areas discussed in this Decision. However, oral comments on all areas of interest relevant to the rulemaking, including those that are outside of the topics addressed by this Decision, will also be permitted each day of the public comment hearing.

66. The Commission encourages interested persons to submit written comments before the October 29, 2019 hearing. Written comments are requested to be filed by October 21, 2019.

67. The Commission prefers that comments be filed using its E-Filings System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding. The Commission will consider all submissions, whether oral or written.

II. ORDER

A. It Is Ordered That:

1. A hearing in this matter shall be held as follows:

DATE: October 29, 2019

TIME: 9:00 a.m. until no later than 5:00 p.m.

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

2. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Commission deems oral presentation unnecessary.

3. Consistent with the discussion above, the Commission encourages interested persons to submit written comments on the topics raised in this Decision. In the event interested persons wish to file comments before the October 29, 2019 hearing, the Commission requests that comments be filed no later than October 21, 2019 and that any changes are proposed in legislative redline format.

4. The Commission prefers and encourages interested persons to pre-file comments in this proceeding (19R-0096E) through its E-Filings System at:

<https://www.dora.state.co.us/pls/efi/EFI.homepage>.

5. The time available for oral comment will be managed and allocated based upon the number of persons interested in providing oral comments.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 25, 2019.**

(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

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners