

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 10R-526E

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

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

Mailed Date: January 21, 2011

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I. STATEMENT

A. Background

1. On July 28, 2010, the Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) regarding the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3. Decision No. C10-0797. The NOPR introduced proposed transmission planning rules.

2. In the NOPR, the Commission noted that certain relatively recent legislative and policy changes impacted transmission planning significantly by adding criteria other than cost and reliability into consideration. These changes require a more complex decision making proceeding and a closer involvement by the Commission in transmission planning.

See Decision No. C10-0797, at ¶ 4. The Commission sought to accomplish the following goals, among others, by promulgating the proposed rules: (1) closer coordination of electric generation and transmission planning; (2) availability of comprehensive transmission plans to all stakeholders, prepared in a manner that is transparent and takes into account stakeholder input; and (3) streamlining of the proceeding involved with applications for certificates of public convenience and necessity (CPCN) for transmission projects.

3. In the NOPR, the Commission also designated Commissioner James K. Tarpey as the Hearing Commissioner.

4. The Commission filed the proposed rules accompanying the NOPR with the Colorado Secretary of State for publication in the August 10, 2010 edition of *The Colorado Register*.

5. Several interested parties filed initial comments on October 15, 2010 and reply comments on October 29, 2010. The Hearing Commissioner conducted a rulemaking hearing on November 5, 2010.

6. Following the hearing, the Hearing Commissioner invited the interested parties to submit additional comments addressing certain questions that arose during the hearing. Decision No. R10-1228-I, November 12, 2010.

7. The following interested parties filed written comments and/or orally commented at the rulemaking hearing: Interwest Energy Alliance (Interwest), Western Resource Advocates (WRA), Tradewind Energy and Horizon Energy, LLC (wind developers), Black Hills/Colorado Electric Utility Company, LP, d/b/a Black Hills Energy, Public Service Company of Colorado, and Tri-State Generation and Transmission Association, Inc. (collectively, utility commenters),

Colorado Counties, Inc., Colorado Independent Energy Association (CIEA), Wyoming Colorado Intertie, LLC (WCI), and the Colorado Coordinated Planning Group (CCPG).

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

9. The Hearing Commissioner notes, as a preliminary matter, that the NOPR and the Recommended Decision both focus on achieving the Commission objectives on a going forward basis, instead of pointing out any deficiencies that may have existed in the past. The Commission has an obligation to ensure that proper transmission planning is taking place in Colorado and that the transmission system is sufficient to satisfy the needs of the Colorado citizens.

10. The following is a general description of the transmission planning process and the Commission planning proceeding as set forth in the adopted rules. The decision will then discuss more specifically the commenters' positions on issues raised with the proposed rules and the Hearing Commissioner's decision on those specific issues.

11. Each of the three jurisdictional electric utilities shall file its ten-year transmission plan with the Commission. The filings shall be made biennially starting with February 1, 2012. Each utility's filing will be based upon its own needs for transmission and shall reflect coordination of projects with all transmission providers in Colorado. Rule 3627(a).

12. The CCPG and the non-jurisdictional utilities and other providers are not required to file any plans with the Commission nor are they required by the adopted rules to coordinate with the jurisdictional utilities in their respective planning processes. They are encouraged to

coordinate with the jurisdictional utilities and they are invited to participate in any subsequent Commission proceedings regarding the transmission plans that are filed.

13. In making their filings with the Commission, each jurisdictional utility is directed to demonstrate compliance with certain requirements and to file specific information. *See* Rules 3627 (b), (c) and (d). The information filed should be sufficient to allow the Commission Staff and other interested persons to understand what transmission projects each utility is proposing and the reasons why; the extent to which the utilities have coordinated their plans with all transmission providers; and the stakeholder outreach that was undertaken by each utility. The goal is that complete information be filed with the Commission on the due date in order to avoid unnecessary delay in the review proceeding.

14. Each utility is directed to provide government agencies and other stakeholders an opportunity for meaningful participation in its transmission planning process. *See* Rule 3627(g). Neither the transmission planning process nor the stakeholder participation is intended to take the place of the siting approval process that will occur later.

15. Once the filings are made by each utility and the Commission has taken the usual steps to make sure the filings are complete and comments from interested persons have been received, the Commission will move forward concurrently with all three filings and schedule workshops and/or hearings. Following the workshop/hearing process, the Commission will issue its decision and address the adequacy of the existing and planned transmission facilities in the state to meet present and future needs in a reliable manner. In its decision, the Commission will address public policy goals and factors that are relevant to its review, will provide direction as appropriate for changes that are needed and the reasons why, and will provide guidance for the next biennial filing by each utility. *See* Rule 3627(h).

16. One of the issues receiving considerable attention during the rulemaking process involves the relationship between the PUC transmission planning proceeding and any subsequent CPCN filings. More specifically, the issue was whether the transmission planning proceeding should be considered as informational only (and not constituting a presumption of need in any subsequent CPCN filing) or adjudicatory (and constituting a presumption of need subsequently). The Hearing Commissioner does not believe the Commission transmission planning proceeding should be categorized as being one or the other. Instead, it makes more sense to talk in terms of the weight that will be given to the Commission transmission planning proceeding in a subsequent CPCN filing. This will depend primarily upon the quality of the information provided, the nature of the stakeholder outreach that has taken place and whether circumstances have changed between the Commission transmission planning proceeding and the CPCN filing. This is specifically addressed in adopted Rules 3206(h) and 3627(i).

B. The role of CCPG

17. The rules proposed in the NOPR contemplate coordinated transmission planning in Colorado will continue to be performed under the auspices of the CCPG. In the NOPR, the Commission stated that it did not intend to materially increase the workload of the electric utilities subject to its jurisdiction and of the CCPG beyond what they are or should be doing.

1. Positions of the parties

18. CIEA, WRA, Interwest, the CCPG, and the utility commenters generally support this approach. Further, in their reply comments, Interwest and WRA state that the CCPG should commit to long range planning and expand its charter, or withdraw. Interwest states that if the voluntary approach envisioned in the proposed rules does not work, additional legislation may be necessary. For its part, WRA adds that activities and organizational structure of the CCPG must

be consistent with transmission planning policies adopted by the Commission, not the other way around. WRA states the Commission should not be unduly concerned by the possibility that non-jurisdictional entities would exit CCPG if its charter is amended.

2. Discussion

19. The Hearing Commissioner notes that the CCPG was formed long before FERC Order 890 and WestConnect came to be. While the Hearing Commissioner recognizes the value of the CCPG in the transmission planning process, he finds that the proper focus of transmission planning rules is the planning performed by the three jurisdictional utilities. It is the prerogative of these utilities to choose to utilize the CCPG to accomplish coordinated transmission planning. The Hearing Commissioner therefore will amend the rules to refer to transmission planning expected of the jurisdictional utilities and delete the references to the CCPG.

C. The role of non-jurisdictional transmission providers

20. The rules proposed in the NOPR require the jurisdictional utilities (Black Hills, Public Service, and Tri-State) to file the ten-year transmission plans and coordinate their plans with all Colorado transmission providers. The plans would be developed under the auspices the CCPG and all of the information prepared as part of the CCPG planning process may be used to support the plan filed with the Commission.

1. Positions of the parties

21. The utility commenters contend that the proposed rules effectively place them in the role of guarantors of the planning process for the whole state, which necessarily includes transmission providers over which the utility commenters and the Commission have no control or jurisdiction. The utility commenters argue that the Commission cannot indirectly exercise jurisdiction over the non-jurisdictional transmission providers in this manner.

22. In their reply comments, wind developers recognize that many CCPG members are not subject to the jurisdiction of the Commission. Wind developers argue that jurisdictional utilities should be responsible for involving stakeholders and analyzing different scenarios for transmission plans submitted to the Commission.

23. CIEA argues that the proposed rules should be amended to require an analysis of any merchant transmission projects proposed during the planning cycle. CIEA argues that transmission upgrades proposed by independent transmission companies should be included in the consideration of regional transmission planning scenarios. Similarly, WCI argues that independent transmission companies should be given an opportunity to sponsor both reliability and economic transmission projects.

2. Discussion

24. The Hearing Commissioner notes that Public Service, Black Hills, and Tri-State collectively serve about 85 percent of the load in Colorado. He also notes that all transmission providers, both jurisdictional and non-jurisdictional, fully participate in the preparation of the annual ten-year plan prepared under the auspices of CCPG and summarized by WestConnect.

25. The Commission is not attempting to exercise jurisdiction over non-jurisdictional providers. The proposed rules contemplated that only jurisdictional utilities will be required to file their ten-year transmission plans with the Commission. The adopted rules are therefore revised to more clearly reflect that proposition. *See* Rule 3627(a) and (g). The adopted rules place no requirements on the non-jurisdictional transmission providers.

26. The Hearing Commissioner notes that non-jurisdictional providers historically have been active participants before the CCPG and expects that participation will not change due to the new rules. The Hearing Commissioner acknowledges and appreciates the willingness of

the non-jurisdictional providers to continue to coordinate information related to their transmission plans with the filings made by the jurisdictional utilities. The purpose of these coordinated filings will be to provide the Commission and all stakeholders with a comprehensive overview of transmission planning in Colorado.

27. The adopted rules will allow the jurisdictional utilities to note in their filings the extent of cooperation on the part of non-jurisdictional providers, through CCPG or otherwise, in the preparation of transmission plans. *See* Rule 3627(a)(I)(D). The adopted rules do not require the jurisdictional utilities to be responsible for others.

28. Regarding merchant transmission projects, the Hearing Commissioner believes it that is important for all stakeholders to participate in all phases of transmission planning process, including identification and evaluation of alternatives. The Hearing Commissioner expects that jurisdictional utilities will give fair consideration to merchant transmission proposals when developing their transmission plans.

D. Single system planning concept

1. Positions of the parties

29. The rules proposed in the NOPR would require the ten-year transmission plans to be consistent with the single-system planning concept, defined as a collective use of the existing transmission system and making the appropriate additions, upgrades and enhancements to the system as if the transmission system were owned by a single entity.

30. The utility commenters assert that the CCPG conducts planning using the single-system planning concept and the focus of the CCPG planning process is to determine whether there is an electrical need for new facilities. The utility commenters add that the single-system planning concept must be put in the context that each utility owns and operates its own separate

transmission system, that there is no common dispatch of generation resources except under the emergency conditions, and utilities have no rights to use another utility's transmission system outside of that prescribed in the Open Access Transmission Tariffs. Therefore, they request the Commission clarify its understanding of the single-system planning concept.

31. The utility commenters further argue that the concept that a transmission system should be planned as if it were owned by one entity ignores the fact that numerous transmission providers and stakeholders have different interests and each would plan a statewide transmission system differently. The utility commenters request that the Commission consider the limitations of the concept of single system planning in a non-restructured state. In their supplemental comments, the Utility Commenters clarified their understanding of the single-system planning concept to mean that it should 1) ensure that a proposed project does not negatively impact the system of any other transmission provider or the overall transmission system in the near-term and long-term planning horizons; 2) avoid duplication of facilities; and 3) in appropriate cases, encourage the development of joint projects where a proposed line serves the mutual needs of more than one transmission provider and/or stakeholder.

32. In its reply comments, CIEA observes that the information provided for purposes of the CCPG planning, while presented in a collaborative and open stakeholder process, is based on the individual system reliability inputs and self-interest of the CCPG transmission providing members. CIEA contends that the CCPG planning represents the interests of individual utilities, rather than the interests of the state as a whole. CIEA concludes that joint planning that identifies the needs of the state for the timely construction of a robust and reliable transmission network designed to make available to Colorado ratepayers the most efficient and economic generation

resources rather than just the reliability needs of utilities or transmission service providers should be the objective of the Commission transmission planning rules.

2. Discussion

33. The Hearing Commissioner understands the single-system planning concept to mean that, if several utilities have facilities in a common geographical area, the needs of each utility are aggregated and the transmission system performance is evaluated as a whole. Once deficiencies in the transmission system are identified, alternatives are developed and evaluated from a technical perspective (e.g., as if the transmission system were owned by a single entity). The preferred alternatives are selected on technical merits alone and issues regarding ownership, construction responsibility, and financing responsibility are resolved at a later time. In reality, the Hearing Commission recognizes that many other factors enter into transmission providers' rationale for choosing their preferred alternatives. Therefore, the Hearing Commissioner will replace the nomenclature of "single system planning" in the proposed rules with the more definitional language offered by the utility commenters. *See* Rule 3627(a)(I).

E. Contents of transmission plan filing

34. The rules proposed in the NOPR require each utility to file information supporting its ten-year transmission plan to be filed simultaneously with its plan.

1. Positions of the parties

35. The utility commenters contend the main component of the ten-year transmission plan is a list of proposed transmission projects and alternatives, as well as information regarding both. The utility commenters further claim the proposed rules appear to elevate background information over the transmission plan itself. The utility commenters argue the transmission planning rules should specifically identify the backup information necessary to understand and

evaluate the filed plans, not require the submission of every conceivable piece of data that may have contributed to the development of the plan.

36. Likewise, the CCPG argues that the proposed rules contemplate filing of voluminous amounts of data. The CCPG also argues that this detailed information would not be useful to the Commission in making decisions related to adequacy of ten-year transmission plans.

37. In Decision No. R10-1228-I, the Hearing Commissioner invited interested parties to comment on what data should accompany transmission plans filed either on an informational or an adjudicatory basis.

38. The utility commenters state that the rules should require that the following information be filed with the transmission plan in support of any particular transmission project:

- Relevant load forecasts;
- Relevant resource planning information;
- Description of need, including information related to external considerations such as state and federal policy initiatives that relate to the need for the project;
- A description of the stakeholder process used in the development of the plan, and a summary of stakeholder input and alternatives presented;
- Studies relied on to support the need for any project reflected in the plan that would require a CPCN;
- The identification of alternatives, if any, that were considered but not included in the plan, and the reasons for exclusion; and
- CCPG or other relevant coordinated planning reports and studies.

39. The utility commenters state that, in addition to a description of the transmission planning process and stakeholder involvement, the materials supporting a ten-year transmission plan should identify the base assumptions used in individual studies and in the overall planning

process; project alternatives considered; high level cost estimates for proposed projects and the alternatives considered; and an explanation of why the proposed projects are the best alternatives for meeting the identified needs. The utility commenters do not believe that the utilities should be required to submit all power flow models, all system-wide load and resource forecasts and plans, or the various and multitudinous data that supports and underlies each of the studies and analyses submitted in support of a particular project.

40. CIEA notes that transparency is required for transmission planning. CIEA points out that Order 890, issued by the Federal Energy Regulatory Commission (FERC) lists the following minimum criteria for transparency in the transmission planning process:

- The transmission provider must disclose to all customers and other stakeholders the basic criteria, assumptions and data that underlie its transmission plans. Key inputs include load forecasts, customer demand response data, basis for generator dispatch in power flow cases, economic information, base case and change case data.
- The transmission provider must provide in writing and make available the basic methodology, criteria and processes that it uses to develop its transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied.
- The information provided by transmission customers must enable customers, other stakeholders or an independent party to replicate the results of planning studies and thereby reduce the incidence of after the fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion.
- Transmission providers must make available their transmission plans and related studies. It is important that FERC, stakeholders, neighboring transmission providers and affected state authorities have ready access to this information in order to facilitate coordination and oversight.
- Transmission providers must make available information regarding the status of upgrades identified in their transmission plans.
- Transmission providers should make as much transmission planning information publicly available as possible, consistent with protecting the confidentiality of customer information.

41. CIEA argues that the utilities should not have any problems complying with the transparency principles since they already comply with Order 890. CIEA contends that ensuring compliance with these transparency standards should be the focal point of the rules adopted in this docket.

42. In its supplemental comments, Interwest states that transmission plan filing must include a comparative analysis of reasonable alternatives. Interwest also argues that, in order to accomplish transparency, transmission plans must include all stakeholder comments and written responses thereto.

2. Discussion

43. The Hearing Commissioner notes that FERC requires that transmission planning be open, transparent, and coordinated. He finds that a description of stakeholder participation and input in the development of the transmission plan should be filed with the Commission as part of the transmission plan. The Hearing Commissioner also agrees with the FERC that making this information publicly available will reduce the incidence of after-the-fact disputes and facilitate stakeholder participation and Commission oversight of that process.

44. The Hearing Commissioner also notes that the requirement for the utilities to file supporting information is not a new requirement imposed by the Commission. To the contrary, this information is already required by the transmission tariffs adopted by all three jurisdictional utilities, WestConnect, and the CCPG charter. The Hearing Commissioner will therefore require the three jurisdictional utilities to file the information necessary to meet the FERC transparency requirements to support their transmission plans, but he will not list every specific piece of information. *See* Rule 3627(c). The information required by Rule 3627(c)(I) through (VII) was developed taking into account the suggestions of the utility commenters and CIEA as well as the

needs of the Commission in evaluating the ten-year transmission plans. To the extent that this information is voluminous, the utilities may provide a specific, operational weblink to the data in supporting their transmission plans in lieu of filing the data itself.

F. Economic studies

45. The proposed rules would require that the jurisdictional utilities file any economic studies performed since the last transmission plan filing. The proposed rules define economic studies as studies that evaluate transmission upgrades not necessarily needed for reliability, but nevertheless reduce the cost of serving load. The proposed rules, however, do not contain an independent requirement to perform economic studies.

1. Positions of the parties

46. WRA contends that economic studies are central to transmission planning and are required by the FERC Order 890. Production dispatch models and/or capacity expansion models, which incorporate economic data, are essential to producing both a twenty-year conceptual plan and a ten-year plan.

47. WRA argues that the definition of economic studies should be clarified to provide the studies include a production dispatch modeling tool or capacity expansion modeling tool. It also recommends a clarification that economic studies can be used to evaluate alternate futures as part of the ten-year and twenty-year planning processes. WRA also states that examples listed in proposed Rule 3627(e)(III) could be interpreted as constraining such studies and therefore should be removed.

48. WRA acknowledges that, according to the CCPG charter, the CCPG neither conducts nor has a role in conducting economic studies. However, WRA believes that economic studies should be conducted through the CCPG to ensure transparency, consistency, and an open

stakeholder process. Therefore, WRA recommends that the Commission order the jurisdictional utilities to attempt to amend the CCPG charter and then formally review the charter amendments.

49. The utility commenters note that FERC requires the utilities to perform economic studies and this requirement is incorporated in their transmission tariffs. The utility commenters also state that the proposed rules are unclear as to who is expected to perform economic studies, since CCPG specifically states that it will not perform economic studies. The utility commenters also contend the final rules adopted in this docket should identify which economic studies should be performed.

50. The CCPG states that it does not support an expansion of its charter. The CCPG also indicates that it is not willing to perform economic studies in the future.

51. In its reply comments, CIEA states that, if the CCPG is not willing to perform economic studies, the Commission should require the utilities to provide such information when filing for approval of their transmission plans or for CPCNs.

52. In their reply comments, the utility commenters argue that the tools suggested by WRA typically are used by Regional Transmission Organizations (RTOs) and since Colorado does not have an RTO, it is not appropriate for Colorado. The utility commenters state that typically the savings realized by optimizing security-constrained economic dispatch models are not sufficient to justify the cost of the transmission line.

53. In Decision No. R10-1228-I, the Hearing Commissioner invited all interested parties to comment whether a definition of economic studies consistent with FERC Order 890 would address the definitional concerns expressed at the hearing on November 5, 2010 or to provide an alternate definition.

54. In its additional comments, Interwest supports inclusion of the FERC definition into the rules, but argues the definition should be expanded to include the economics of alternate and regional generation expansion alternatives.

55. CIEA also supports inclusion of the FERC definition of economic studies in the proposed rules. Further, CIEA stresses the importance of the upgrades to transmission facilities necessary to integrate new generation resources or loads on an aggregated or regional basis.

56. WRA favors adding language to the proposed rules that provides further direction on the tools that should be used for economic planning and their role in evaluating alternative future scenarios in the ten and twenty year planning horizons. WRA states that the purpose of undertaking economic studies is to determine the need for transmission under projected future conditions, where both load and resource locations are subject to change.

57. Wind developers state that one purpose of economic studies is to evaluate the impacts of congestion, or insufficient transmission capacity. Wind developers argue that these economic studies are necessary to obtain the information on what transmission projects should be completed, in what order and in what size voltage, to cost-effectively transport the electricity from the areas presently experiencing insufficient transmission to load.

58. The utility commenters assert that including a definition of economic studies in the rules would address the concerns expressed at the hearing on November 5, 2010. The utility commenters also assert that economic studies should be defined in a way that includes consideration of congestion, alternatives including transmission and other investments, and integration of new resources.

2. Discussion

59. The Hearing Commissioner finds that economic studies are an integral component of both transmission and generation expansion planning. Consistent with the FERC Order 890, economic studies, in the context of transmission planning, include an evaluation of whether the transmission upgrades or other investments, not otherwise needed for reliability, can reduce the costs of serving native load. The Hearing Commissioner thus will amend the rules to include a definition consistent with FERC Order 890. *See* Rule 3627(d).

60. The Hearing Commissioner does not believe that a clarification as to what party would perform the economic studies is necessary since this is adequately addressed in the FERC Order 890 and utility transmission tariffs. It is the responsibility of the stakeholders participating in the planning process to request the necessary and appropriate economic studies. The Hearing Commissioner does not find it is necessary to specify in the adopted rules the tools to be used in conducting economic studies.

G. Government agencies and other stakeholder input

61. The proposed rules require utilities to actively engage government agencies and other stakeholders in the planning process, before finalizing specific projects in the transmission plan.

1. Positions of the parties

62. Interwest contends that local government, land use planning, environmental, and public policy perspectives can all be useful in transmission planning. Interwest adds that such stakeholder input can lead to earned stakeholder consent and streamlined transmission planning and CPCN proceedings before the Commission.

63. The utility commenters argue the rules should eliminate any references to stakeholder outreach concerning issues that will be better addressed within siting, permitting, and environmental processes. The utility commenters do not believe that outreach on siting issues in a transmission planning proceeding would be productive. The utility commenters point out that transmission corridors are not yet identified at the planning stage of transmission project development and argue that requiring input of potential affected landowners interested primarily in siting issues will only make planning more difficult. The utility commenters agree, in general, that broad stakeholder input is appropriate but argue that the CCPG accommodates stakeholder participation.

64. In its reply comments, CIEA supports early stakeholder involvement, arguing that stakeholders will have to be dealt with at some point in the process and early involvement generally can reduce the level of misinformation and uncertainty among the interested parties in the planning process.

65. In Decision No. R10-1228-I, the Hearing Commissioner invited interested parties to comment on what level of outreach for stakeholder input is appropriate to county, municipal, and other government agencies in the transmission planning parties. The Hearing Commissioner also inquired whether outreach should be conducted in a different manner depending on whether the transmission planning docket will be an informational docket or an adjudicatory docket.

66. In supplemental comments, Colorado Counties, Inc. (CCI) and Colorado Municipal League (CML) support the increased outreach towards local government in the transmission planning process. CCI and CML state there should be candid conversations about a transmission project while it is still in the conceptual stage and before the relationship takes on a more formal, quasi-judicial tone. The proposed outreach will also benefit local governments in

the preparation of land use plans for future development (such as designating areas for possible transmission infrastructure).

67. WRA focuses on the level of outreach that it believes must occur for a project to receive a rebuttable presumption of need. WRA argues that, in order for the public to be given an opportunity to review and comment on the plans to address the potential environmental and cultural resource impacts, a public hearing addressing the plans will need to take place.

68. The utility commenters state that a higher level of participation in the planning process by stakeholders, especially the Commission Staff is important. The utility commenters state that the existing planning process is open, although county, municipal, and other government agencies have not shown much interest in participating. The utility commenters argue that if the transmission plans are filed on an informational basis, the outreach to potentially affected county, municipal, and government agencies is neither practicable nor necessary. However, they express a willingness to send meeting notices to CCI and CML, and make these organizations responsible for keeping their constituents apprised of projects that may be of interest to their jurisdictions. In addition, utility commenters state that potentially affected counties should be directly notified in an adjudicatory proceeding.

2. Discussion

69. The Commission has an interest in getting stakeholder input early in the planning process. The Hearing Commissioner finds that meaningful stakeholder input can resolve many issues early in the planning process.

70. The Hearing Commissioner believes that active outreach is necessary. The Hearing Commissioner agrees with the utility commenters that broad stakeholder participation is difficult to achieve; hence the reason for active outreach contemplated in the

rules. The Hearing Commissioner disagrees, however, that such outreach is impractical and unnecessary.

71. The intent of the proposed rules is to seek high level input from government agencies and other interested parties on projects and alternatives when the process is still at the conceptual stage, prior to identification of preferred alternatives. In determining the appropriate level of stakeholder outreach, the Hearing Commissioner recognizes that specific rights-of-way are not yet identified at this stage of the transmission planning process. The utilities therefore should not be expected to address specific siting or rights-of-way issues at that time. Likewise, while the Hearing Commissioner agrees that environmental considerations must be taken into account in the overall development of a transmission plan, the level of analysis will be less detailed than in the project development stage.

72. The stakeholders also will have an opportunity to raise their concerns with the Commission after a transmission plan is filed. Finally, the Hearing Commissioner recognizes that not every piece of stakeholder input can or will be incorporated into a final transmission plan.

73. The Hearing Commissioner finds that a modification to the proposed rules is not needed. However, if future experience indicates that the utilities' outreach is not eliciting adequate stakeholder participation or is unduly burdensome on the utilities, the Commission will consider modifying the rules appropriately.

H. Transmission planning proceedings

74. The nature of transmission planning dockets that would follow the transmission plan filings was extensively discussed during the rulemaking hearing. Further, in Decision No.

R10-1228-I, the Hearing Commissioner specifically invited interested parties to comment on whether transmission plans should be filed on an informational or an adjudicatory basis.

1. Positions of the parties

75. In its comments, Interwest argues that informational filings would not be helpful to stakeholders and the Commission because these filings only indirectly impact transmission investment and approval decisions. Interwest expresses a preference for investment grade due diligence information developed in planning that can support investment decisions and produce expert level evidence, data, and information. This information would then support Commission findings of fact and conclusions of law.

76. CIEA argues that transmission plans filed with the Commission pursuant to the proposed rules should be subjected to an evidentiary hearing at which the assumptions, theories, forecasts, etc., included in the transmission plans will be subject to inquiry and analysis through a participatory hearing process conducted by the Commission. CIEA states that, if transmission plans were filed only on an informational basis, there would be no certainty that the Commission would have an opportunity to meaningfully review and enforce the outcome of a transmission plan. Likewise, stakeholders would not have an effective voice in shaping the transmission plan necessary to accommodate new resources if transmission plans are filed only on an informational basis.

77. WRA argues that if the transmission plan filings are not adjudicated, a rebuttable presumption of need would be inappropriate. WRA argues that the public must have a forum to raise the issues on the transmission plan, either in a formal transmission plan docket or in a CPCN proceeding. WRA further states there is some merit in filing the transmission plan on an

informational basis, as this would lower the level of information detail and public outreach required.

78. The utility commenters state that they are not opposed to filing transmission plans with the Commission, but they expect that the Commission will grant a rebuttable presumption of need for projects contained in such plans. The utility commenters argue that, without such a presumption, it is difficult to see how streamlining of the CPCN process can be achieved. The utility commenters explain that, if a project has been granted a presumption of need, the burden in a subsequent CPCN proceeding would be on the party or parties challenging the need to rebut the presumption. These parties would need to prove that the Commission erred in its earlier determination that the proposed project was consistent with the approved transmission plan.

79. Public Service also argues that a ten-year transmission plan should be viewed as a whole. Tri-State and Black Hills envision a case-by-case approach, such that a rebuttable presumption of need would not necessarily be accorded to all projects included in the ten-year transmission plan filed with the Commission. Tri-State and Black Hills contend that if the Commission will require extensive information before a rebuttable presumption of need may attach, they would prefer to have an option of seeking the presumption only for specific projects.

80. The utilities believe that extensive information and evidentiary processes are not needed to support a presumption of need. However, if the Commission concludes that extensive information and process are required before a presumption of need can attach, the utilities would prefer to file transmission plans on an informational basis and reserve evidentiary presentations for CPCN proceedings. During the hearing, Public Service stated that going through evidentiary

hearings on the issues of need twice, in both a transmission planning docket and a CPCN docket, would be duplicative and would slow down, not streamline the process.

81. In its reply comments, CIEA requests that the Commission amend the proposed rules to require a hearing on the adequacy of the plan, if requested by any party, and clarify that the plan can be approved or modified based on evidence produced at the hearing. CIEA states that a presumption of need should come only with a comprehensive transmission plan that also involves economic studies, an assessment of all alternatives, and equitable consideration of stakeholder input.

82. In their reply comments, wind developers state that if the Commission intends to grant a presumption of need to projects contained within a transmission plan, then transmission plans should be subject to a heightened level of scrutiny.

2. Discussion

83. The Hearing Commissioner agrees with Public Service that litigating the same issues twice would be duplicative and counter-productive. The Hearing Commissioner also agrees with WRA that a rebuttable presumption of need would not be appropriate if transmission plans are not adjudicated. In such a proceeding, the parties disputing need for a project would not have the same opportunity to litigate the issue to the same extent as in an adjudicatory proceeding.

84. The Hearing Commissioner therefore finds that upon the filing of the transmission plans by the three jurisdictional utilities, the Commission will open a single miscellaneous docket. The proceeding conducted in this miscellaneous docket will make the comprehensive ten-year transmission plans and supporting information available to stakeholders and other interested persons in a transparent manner. The Hearing Commissioner notes that current SB 07-

100 proceedings will serve as a model for the initial stages of the transmission planning proceedings. These proceedings will also include an opportunity for stakeholders to file comments, for the Commission to pose additional questions to the utilities, either on its own motion or following a request of a stakeholder, and for the utilities to present information at workshops and/or hearings. The Commission will review the plans and supporting information, the written comments, and the information obtained at the workshop(s) and/or hearing(s), and will issue a written decision regarding compliance with these rules and the adequacy of the existing and planned transmission facilities in this state to meet the present and future energy needs in a reliable manner. These proceedings will provide an opportunity for the Commission to offer policy guidelines to the utilities to be used in the preparation of the next biennial transmission plan filing, in a manner similar to interpretative rules. See Rule 3627(h).

85. Even though transmission plans will not carry a rebuttable presumption of need, the utilities shall reference the most recent biennial ten-year transmission plan in any subsequent CPCN application for individual projects contained in that plan. The CPCN application may rely on the information contained in the plan and the decision of the Commission on review of the plan, absent a change in circumstances. See Rules 3206(h) and 3627(i). The weight given to such information will depend on the quality of information presented and other factors discussed in this Recommended Decision. In other words, given sufficient documentation in the biennial ten-year transmission plan for the project under review and if circumstances for the project have not changed, the applicant may rely substantively on the information contained in the plan and the Commission's decision on the review of the plan to support its application.

86. The proposed rules and the NOPR envision that the Commission will review and issue a decision on the adequacy of the filed transmission plans and the process used to develop

the plans and offer policy guidelines to the jurisdictional utilities. The Hearing Commissioner agrees with the utility commenters and wind developers that the rationale by which the Commission will determine adequacy of a transmission plan should be clarified in the adopted rules. The Hearing Commissioner therefore amends the rules accordingly. See Rule 3627(a) and (b). However, the Hearing Commissioner declines to specify in the rules the rationale to be used by the utilities for evaluating their alternatives. The rules only contemplate that the jurisdictional utilities will provide the rationale that they used to select their preferred alternatives. The rationale should be defined with input from stakeholders.

87. A number of participants have requested that the Commission indicate in advance, the public policies and the environmental considerations that each utility needs to take into account during its particular transmission planning process. For purposes of the initial filing (i.e., February 1, 2012), the Hearing Commissioner declines to do so. These issues should be explored by the utilities and the stakeholders and the Commission will address these issues during the transmission planning proceedings that occur during 2012 when it has specific plans before it from the three utilities.

I. Coordination of electric transmission and generation planning, and biennial filing requirements

88. One of the Commission objectives in the NOPR is closer coordination of electric generation and transmission planning. The proposed rules, however, contain no language related to such coordination.

1. Positions of the parties

89. In its comments, CIEA argues there should be a clearly articulated tie-in between the electric resource planning rules and the proposed transmission planning rules. CIEA claims that the Commission should specifically link these two planning activities in a fashion that both

coordinates the timing and facilitates consideration of the results from one docket for one type of planning to the next.

90. The utility commenters note that a transmission plan will not necessarily address all of the generation that developers may propose through Requests for Proposals (RFPs). The utility commenters believe it is appropriate for the Commission to require the filing of transmission plans in advance of the Phase II of the Electric Resource Plan (ERP), but it will not be a cure-all for the “chicken or the egg” problem underlying transmission planning.

91. The utility commenters also argue that since the electric resource planning cycle is four years, the Commission should only require submission of transmission plans every four years. The utility commenters also argue that the Commission should allow for some flexibility in the ten year plans, because unanticipated generation additions and short term factors may lead to the addition of unanticipated projects.

92. The utility commenters also note that, in many cases, the location of generation resources may not be known until after the ERP process is complete. They argue it is premature to compare the merits of different generation resources in a transmission planning docket. They note that just because a transmission project is identified in a transmission plan does not mean it will actually be built in the timeframe identified in the plan.

93. In reply comments, utility commenters argue that determination of transmission needs should not be limited to the generation additions expected as a result of the next resource plan.

94. In Decision No. R10-1228-I, the Hearing Commissioner invited interested parties to comment on the coordination of transmission planning and electric resource planning dockets.

95. In response, Interwest suggests that proposed rules should require transmission information to be completed and ready before filing of Phase I of the ERPs, so that there is no question about what transmission will be available, where, and when. This would require filing, consideration and determination of transmission plans before October 2011 and October of each filing year thereafter.

96. CIEA strongly supports the coordination of the transmission planning and electric resource planning. CIEA argues that transmission plans should be filed every two years because they will be an invaluable source of information for both potential generation resource providers and other stakeholders interested in the status of transmission development.

97. WRA states that coordination of transmission and generation planning is essential to success of a coordinated electric plan for Colorado. WRA states that information from the ERPs must be incorporated into the ten-year transmission plan, and certainty of transmission is essential to a successful electric resource plan.

98. Black Hills contends that a transmission planning docket becomes relevant to the ERP process only if it precedes an ERP filing cycle; otherwise, coordination of the two would be impossible. During Phase II of the ERP, the utility solicits and evaluates competitively bid generation resources and previously known or approved transmission projects become the basis for the utility to determine the resource portfolio. Such transmission projects would be approved in an earlier Rule 3206 process, certificated in CPCN proceedings, or known from earlier SB-100 or transmission plan filings. This would make the resource bid evaluation in an ERP process rational and transparent because of the reference to the known or approved transmission projects.

99. Public Service favors filing of transmission plans on a four year cycle and agrees that, if filed in advance of the resource plan, transmission plans may be beneficial in informing

both phases of the resource plan. Public Service notes that if the Commission requires filing of transmission plans every two years as contemplated in the proposed rules, coordination between the resource plan and the transmission plan becomes less important (e.g., easier) as transmission plans will be filed frequently enough to provide prospective bidders with relatively current transmission information.

100. For its part, Tri-State notes it is subject to a different resource planning process, approved by the Commission in Decision No. C10-0101, mailed February 4, 2010 in Docket No. 09I-041E. That resource planning process does not entail separate phases and contemplates joint resource and transmission planning schedules.

2. Discussion

101. The Hearing Commissioner notes that utilities currently prepare ten-year transmission plans annually for filing with WECC. The Hearing Commissioner finds that a transmission plan that is filed only once every four years will become stale, but is not convinced that annual filings are necessary. The adopted rules therefore will retain the two year filing cycle, with the caveat that utilities may amend their plans when necessary. The Hearing Commissioner also agrees with Public Service that filing of ten-year transmission plans every two years facilitates better coordination of transmission and generation planning.

102. The Hearing Commissioner determines that, due to their individual complexities, generation and transmission planning should be addressed in separate proceedings. However, he also recognizes that there is an interrelationship in the planning for both generation and transmission. Both generation and transmission plans are fluid and the utility must constantly adapt to changing circumstances. The timing of the biennial filing of transmission plans assures that the best available transmission information is used in the electric resource plan proceedings.

It also gives the Commission an opportunity to present its findings on the ten-year transmission plans and its transmission policy guidance before the beginning of Phase II of the ERPs.

J. SB 07-100 filings

103. The proposed rules are silent on the coordination between the transmission filing required by SB 07-100 and the ten-year transmission plans. The Hearing Commissioner invited all interested parties on the coordination between the two filings.

1. Positions of the parties

104. Interwest recommends either coordinated or simultaneous filings. CIEA suggests simultaneous filings, in order to facilitate the presentation of a comprehensive transmission plan. WRA argues that whether the ten-year transmission plan is filed simultaneously with the SB 07-100 report or a few months later is immaterial so long as the SB 07-100 reports and the transmission plans are consistent with each other.

105. The utility commenters contend that if the transmission plan will be considered in an adjudicatory docket, it should be filed after the SB 07-100 report so that utilities can incorporate any feedback provided by the Commission in the SB 07-100 docket. Public Service and Black Hills prefer that the timing of the transmission plan coincide with the Rule 3206 filing in April. Tri-State takes no position on this matter since it does not file SB 07-100 reports.

2. Discussion

106. The Hearing Commissioner declines to delay the timing of the transmission plan filings contemplated in this rulemaking, in order to maintain the coordination of transmission and generation planning. However, he notes that it may be appropriate to review the timing of the ten-year transmission plans, the SB 07-100 reports, and Rule 3206 filings at a future time.

K. February 1, 2011 filing deadline

107. The proposed rules require that transmission plans be filed February 1, 2011 and February 1 of each even year thereafter.

1. Positions of the parties

108. The CCPG and the utility commenters contend that a February 2011 filing date is not realistic. CIEA recommends that the Commission require utilities to coordinate transmission and generation planning cycles beginning with the 2011 electric resource planning requirement under the existing ERP Rules. CIEA requests that the Commission implement rules that contemplate final transmission plans approved by the Commission no later than six months prior to the issuance of utility RFPs in Phase II. This timeframe would allow prospective bidders to review the approved transmission plan for the purpose of developing their generation projects at locations where additional transmission will be available. Finally, Interwest advocates for an abbreviated filing in 2011 that is still sufficient to fulfill the SB 100 requirements and provide inputs for the 2011 ERPs.

2. Discussion

109. The Hearing Commissioner agrees that the first instance of coordination between transmission and generation planning should be in 2012 with the filing of the transmission plans on February 1, 2012, sufficiently ahead of Phase II of the electric resource plans. The rules will be modified accordingly. *See* Rule 3627(a) and (d). The Hearing Commissioner contemplates informal workshops in 2011 to clarify the expectations for the first filing in 2012.

L. Twenty year conceptual planning

110. The proposed rules require the utilities to file a conceptual long range plan that looks twenty years into the future. This conceptual long range plan considers projected system

needs for various credible alternatives. The ten year plan should be consistent with, and give an appropriate consideration to, the conceptual long range plan.

1. Positions of the parties

111. The utility commenters argue since there are no present requirements to perform conceptual long range planning focusing on Colorado, this proposed requirement would translate into substantially increased work for the three jurisdictional utilities. Even though the CCPG has formed a study group to perform long range Colorado transmission planning, it is in a startup mode and has not yet produced a deliverable study.

112. In their reply comments, wind developers argue that in the twenty year timeframe the utilities should develop a range of options to present to the Commission and the stakeholders.

2. Discussion

113. The Hearing Commissioner finds that the value of a twenty-year conceptual plan is to analyze potential “what if” scenarios. He envisions that these analyses will include scenarios such as high and low load growth rates, federal carbon tax initiatives, and drought scenarios, rather than in-depth transmission project studies.

114. However, it is clear from the comments filed by the interested parties that the requirements for such conceptual long-range scenarios need further definition. Therefore, the Hearing Commissioner will delay the filing date of the first of these scenarios until February 1, 2014. In the decision on the first biennial review of the ten-year transmission plans (filed February 1, 2012) the Hearing Commissioner expects the Commission to provide the utilities with guidance for the scenarios to be included in the 2014 filing. See Rule 3627(e).

II. ORDER**A. It Is Ordered That:**

1. Commission Rules pursuant to 4 *Code of Colorado Regulations* 723-3-3206(h) and 723-3-3625 through 3627, contained in Attachment A to this Order are adopted consistent with the discussion above.

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

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

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

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

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

5. This Order is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JAMES K. TARPEY

Hearing Commissioner

ATTEST: A TRUE COPY

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

Doug Dean,
Director

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

* * * * *

[indicates omission of unaffected rules]

3206. Construction or Extension of Transmission Facilities.

* * * * *

[indicates omission of unaffected rules]

(h) Any application for a CPCN or any filing made pursuant to paragraph (d) of this rule for a transmission line project shall explain how the proposed project is consistent with the utility's ten-year transmission plan filed with the Commission pursuant to rule 3627. In its CPCN application, the applicant may rely substantively on the information contained in its most recent ten-year transmission plan and the Commission's decision on the review of the plan to support its application.

* * * * *

[indicates omission of unaffected rules]

3619. – 362449. [Reserved]

[new rule]

TRANSMISSION PLANNING

3625. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority.

3626. Overview and Purpose.

The purpose of these rules is to establish a process to coordinate the planning for additional electric transmission in Colorado. The Commission endorses the concept that planning should be done on a comprehensive, transparent, state-wide basis and should take into account the needs of all stakeholders.

3627. Transmission Planning.

- (a) No later than February 1, 2012 and February 1 of each even year thereafter, each jurisdictional electric utility shall file a ten-year transmission plan and supporting documentation pursuant to this rule.
- (I) Each ten-year transmission plan shall meet the following goals:
- (A) The proposed projects do not negatively impact the system of any other transmission provider or the overall transmission system in the near-term and long-term planning horizons;
- (B) The proposed projects avoid duplication of facilities;
- (C) The proposed projects reflect the development of joint projects where a proposed project services the mutual needs of more than one transmission provider and/or stakeholder; and
- (D) The proposed projects are coordinated with all transmission providers in Colorado.
- (II) The plan shall identify all proposed facilities 100kV or greater.
- (III) If any of the information required to be filed pursuant to this rule is available on a utility or utility maintained website, then it is sufficient for purposes of this rule to include in the filing a web address that provides direct access to that specific piece of information. This address must remain active until the next biennial filing.
- (b) Each ten-year transmission plan shall demonstrate compliance with the following requirements:
- (I) The efficient utilization of the transmission system on a best-cost basis, considering both the short-term and long-term needs of the system.
- (II) For each year covered in the ten-year plan, all applicable reliability criteria for selected demand levels over a range of forecast system demands, including summer peak load, winter peak load and reduced load when renewable generation is maximized.
- (III) All legal and regulatory requirements, including renewable energy portfolio standards and resource adequacy requirements.
- (IV) All Federal Energy Regulatory Commission (FERC) regulations contained in Order 890.
- (c) Each ten-year transmission plan shall contain the following information:
- (I) The methodology, criteria and assumptions used to develop the transmission plan. This includes the transmission facility rating methodology and established facility ratings; transmission base case data for all applicable power flows, short circuit and transient stability analyses; and utility specific reliability criteria.
- (II) The load forecasts and controllable demand side management data including the interruptible demands and direct load control management used to develop the transmission plan.

- (III) The generation assumptions and data used to develop the transmission plan.
 - (IV) The methodology used to determine system operating limits, transfer capabilities, capacity benefit margin, and transmission reliability margin, with supporting data and corresponding established values.
 - (V) The status of upgrades identified in the transmission plan, as well as changes, additions or deletions in the current plan when compared to the prior plan.
 - (VI) The related studies and reports for each new transmission facility identified in the transmission plan including alternatives considered and the rationale for choosing the preferred alternative.
 - (VII) The expected in-service date for the facilities identified in the transmission plan and the entities responsible for constructing and financing each facility.
 - (VIII) A summary of stakeholder participation and input and how this input was incorporated in the transmission plan.
- (d) No later than February 1, 2012 and February 1 of each even year thereafter, each utility shall file all economic studies performed pursuant to FERC Order 890 since the last biennial filing. Such studies generally evaluate whether transmission upgrades or other investments can reduce the overall costs of serving native load. These studies are conducted for the purpose of planning for the alleviation of transmission bottlenecks or expanding the transmission system in a manner that can benefit large numbers of customers, such as the evaluation of transmission upgrades necessary to build large new generation resources. The report shall identify who requested the economic study and shall identify all economic studies requested but not performed.
- (e) No later than February 1, 2014 and February 1 of each even year thereafter, each utility shall file conceptual long-range scenarios that look 20 years into the future. These conceptual long-range scenarios shall analyze projected system needs for various credible alternatives, including, at a minimum, the following:
- (I) Reasonably foreseeable future public policy initiatives;
 - (II) Possible retirement of existing generation due to age, environmental regulations or economic considerations;
 - (III) Emerging generation, transmission and demand limiting technologies;
 - (IV) Various load growth projections; and
 - (V) Studies of any scenarios requested by the Commission in the previous biennial review process.
- (f) Amended filings made pursuant to this rule are permitted at any time for good cause shown.
- (g) Government agencies and other stakeholders shall have an opportunity for meaningful participation in the planning process.
- (I) Government agencies include affected federal, state, municipal and county agencies. Other stakeholders include organizations and individuals representing various interests that have indicated a desire to participate in the planning process.

- (II) During the development of the ten-year transmission plan when objectives and needs are being identified, each utility shall actively solicit input from the appropriate government agencies and stakeholders to identify alternative solutions.
- (III) Once a utility has evaluated the alternative solutions and has prepared recommendations for inclusion in its ten-year transmission plan, the utility shall notify the government agencies and stakeholders of these recommendations.
- (IV) The outreach anticipated in subparagraphs (d)(II) and (d)(III) shall occur in a timely manner prior to the filing of the ten-year plans.
- (V) Each utility shall concurrently provide copies of the filings made pursuant to this rule to all government agencies and other stakeholders that participate in the planning process.
- (h) After the ten-year transmission plans have been filed by jurisdictional utilities, the Commission will consolidate the plans in one proceeding. In this proceeding, the Commission will solicit written comments and will hold a workshop(s) and/or a hearing(s) on the plans for the purpose of reviewing and rendering a decision regarding the adequacy of the utilities' filed transmission plans and process used in formulating the plans. The Commission, on its own motion or at the request of others, may request additional supporting information from the utilities or the commenters. The Commission will review the plans and supporting information, the written comments, and the information obtained at the workshop(s) or hearing(s), and will issue a written decision regarding compliance with these rules and the adequacy of the existing and planned transmission facilities in this state to meet the present and future energy needs in a reliable manner. In this decision, the Commission may also provide further guidance to be used in the preparation of the next biennial filing.
- (i) Utilities shall make reference to the most recently filed ten-year transmission plan in any subsequent CPCN application for individual projects contained in that plan. Given sufficient documentation in the biennial ten-year transmission plan for the project under review and if circumstances for the project have not changed, the applicant may rely substantively on the information contained in the plan and the Commission's decision on the review of the plan to support its application. The Commission will take administrative notice of its decision on the plan. Any party challenging the need for the requested transmission project has the burden of proving that, due to a change in circumstances, the Commission's decision is no longer applicable or valid.

3628. – 3649. [Reserved]