

## **COLORADO DEPARTMENT OF REGULATORY AGENCIES**

### **Public Utilities Commission**

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

#### **PART 3 RULES REGULATING ELECTRIC UTILITIES**

##### **BASIS, PURPOSE, AND STATUTORY AUTHORITY.**

The basis and purpose of these rules is to describe the electric service to be provided by jurisdictional utilities and master meter operators to their customers; to designate the manner of regulation over such utilities and master meter operators; and to describe the services these utilities and master meter operators shall provide. In addition, these rules identify the specific provisions applicable to public utilities or other persons over which the Commission has limited jurisdiction. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, electric service low-income program, cost allocation between regulated and unregulated operations, recovery of costs, the acquisition of renewable energy, small power producers and cogeneration facilities, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-124(2), 40-2-202, 40-2-203, 40-3-102, 40-3-102.5, 40-3-103, 40-3-104.3, 40-3-106, 40-3-111, 40-3-114, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-5-108, 40-7-113.5, 40-7-116.5, 40-8-7-105(5), and 40-9.5-107(5), C.R.S.

##### **3000. Scope and Applicability.**

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[indicates omission of unaffected rules]

- (c) The following rules in this Part 3 shall apply to cooperative electric generation and transmission associations.
  - (I) Paragraphs 3002 (a)(III), (a)(XVI), (b), and (c) concerning the filing of applications for certificates of public convenience and necessity for facilities or for appeals of local government actions.
  - (II) Paragraph 3006(j) concerning the filing of electric resource planning reports.
  - (III) Rule 3102 concerning applications for certificates of public convenience and necessity for facilities.

- (IV) Rule 3103 concerning amendments to certificates of public convenience and necessity for facilities.
- (V) Rule 3104 concerning application to transfer, to obtain a controlling interest, or to merger with another entity.
- (VI) Rule 3200 concerning construction, installation, maintenance, and operation of facilities.
- (VII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.
- (VIII) Rule 3205 concerning construction or expansion of generating capacity.
- (IX) Rule 3206 concerning construction or extension of transmission facilities.
- (X) Paragraph 3253(a) concerning major event reporting.
- (XI) Rules 3602, 3605, and 3618(a) concerning electric resource planning.
- (XII) Rules 3650(e), 3651, 3652, 3662(f), and 3668(d) concerning the RES.
- (XIII) Rules 3700 through 3707 concerning appeals of local government actions.
- (XIV) Rules 3750 through 3757 concerning regional electricity market participation.

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[indicates omission of unaffected rules]

### **3002. Applications.**

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application to request a(n):
  - (I) issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 3100;
  - (II) issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 3101;
  - (III) issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 3102;
  - (IV) amendment of a certificate of public convenience and necessity in order to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 3103;

- (V) transfer of a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets within the jurisdiction of the Commission or stock, or to merge a utility with another entity, as provided in rule 3104;
- (VI) issuance, or assumption of any financial security or to create a lien pursuant to § 40-1-104, as provided in rule 3105;
- (VII) flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 3106;
- (VIII) approval of an air quality improvement program, as provided for in rule 3107;
- (IX) amendment of a tariff on less than statutory notice, as provided in rule 3109;
- (X) variance of voltage standards, as provided in rule 3202;
- (XI) approval of meter and equipment testing practices, as provided in rule 3303;
- (XII) approval of a meter sampling program, as provided in rule 3304;
- (XIII) approval of a refund plan, as provided in rule 3410;
- (XIV) approval of a Low-Income Energy Assistance Plan, as provided in rule 3411;
- (XV) approval of a cost assignment and allocation manual, as provided in rule 3503;
- (XVI) approval of or for amendment to a least-cost resource plan, as provided in rules 3603, 3618, and 3619;
- (XVII) approval of a compliance plan, as provided in rule 3657;
- (XVIII) appeal of local government land use decision, as provided in rule 3703;
- (XIX) approval to participate in a day ahead market, as provided in rule 3753;
- (XX) approval to join a regional transmission organization or independent system operator, as provided in rule 3754;
- (XXI) waiver or delay to join a regional market, as provided in rule 3756;
- (XXII) approval to implement a shared saving approach, as provided in rule 3759; or
- (XXIII) matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific types of submittal.

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[indicates omission of unaffected rules]

**3707. Procedural Rules.**

Pursuant to § 29-20-108(5)(b), C.R.S., any appeal brought by a utility or power authority under this section shall be conducted in accordance with the procedural requirements of Article 6, Title 40, C.R.S., including § 40-6-109.5, C.R.S. Evidentiary hearings on any such appeals shall be conducted in accordance with § 40-6-109, C.R.S.

**3708. – 3749. [Reserved].**

**REGIONAL ELECTRICITY MARKET PARTICIPATION**

**3750. Scope and Applicability.**

Rules 3750 through 3759 shall apply to all jurisdictional electric utilities in the state of Colorado that own and operate transmission facilities and that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity, including rural electric associations, and municipally owned electric utilities are exempt from these rules. Cooperative electric generation and transmission associations are not subject to the requirements in subparagraphs 3755(f)(II), 3757(d)(II), (III), and (V), and rules 3758 and 3759, but are subject to all other rules governing regional electricity market participation.

**3751. Overview and Purpose.**

The purpose of these rules is to establish the requirements for transmission utility filings addressing entry into regional electricity markets, reporting requirements for market progress and participation, and applications for the sharing of market participation benefits in accordance with § 40-5-108, C.R.S. In order to promote these purposes, these rules specify the information that transmission utilities must provide to the Commission in these filings and the Commission findings that these filings must support.

**3752. Definitions.**

- (a) "Day Ahead Market" or "DAM" means a market that optimizes hourly unit commitment and schedules over a 24-hour period and enables unit dispatch across the participating footprint but does not encompass transfer of operational control of transmission assets.
- (b) "Electric industry participant" means an entity or affiliate of that entity that buys or sells electric energy in the market's footprint or in a neighboring footprint.
- (c) "Energy Imbalance Markets" or "EIM" means a market that optimizes real-time unit dispatch within the hour from previously determined schedules ahead of the hour across the participating footprint but does not encompass transfer of functional control of the transmission assets.
- (d) "Generator Interconnection Procedures and Agreements" means the processes and other approaches through which a transmission utility in Colorado enables new generation to interconnect with either its existing or expanded transmission system under FERC rules governing Large Generator Interconnection Procedures and Agreements.
- (e) "Greenhouse gas emissions" or "GHG emissions" means the anthropogenic emissions included in the definition of Statewide Greenhouse Gas Pollution in § 25-7-103 (22.5), C.R.S.

- (f) "GHG Tracking and Accounting System" is a set of market and other protocols included in an RTO, ISO, or DAM tariff or other related materials that enables the tracking, accounting, and reporting of GHGs.
- (g) "Investor-Owned Transmission Utility" or "transmission IOU" means a transmission utility subject to electric rate regulation by the Commission.
- (h) "OATT" means a utility Open Access Transmission Tariff.
- (i) "Pancaking of transmission rates" means the stacking or accumulation of transmission charges for service that uses the transmission facilities of multiple transmission providers.
- (j) "Regional market" means a market administered by an RTO or ISO that coordinates and enhances wholesale electricity transactions, and includes EIMs, DAMs, and RTOs or ISOs.
- (k) "Regional Transmission Organization" or "RTO" or "Independent System Operator" or "ISO" means an independent electric transmission operator that provides wholesale transmission services to more than one provider of electric services and is approved by FERC as meeting the characteristics and functions of an ISO or RTO as defined in FERC's orders and regulations.
- (l) "Resource adequacy" means the ability of supply-side and demand-side resources to meet the aggregate electrical demand including losses.
- (m) "Resource adequacy construct" means a set of rules and procedures enacted by a regulatory body, which could include a FERC-approved tariff, and provides an avenue for utilities or balancing authorities to coordinate in maintaining resource adequacy across an identified footprint or area.
- (n) "Statutory Organized Wholesale Market" or "Statutory OWM" means an RTO or ISO that incorporates the characteristics specified in § 40-5-108(1)(a), C.R.S.
- (o) "Transmission utility" means a public utility in Colorado that is a wholesale electricity supplier or transmitter and owns and operates electric transmission lines capable of transmitting electric energy at a voltage of one hundred kilovolts or more.

**3753. Transmission Utility Participation in a Day Ahead Market.**

- (a) Participation in a DAM by a transmission IOU shall be determined to be in the public interest if the Commission finds that the DAM the utility seeks to participate in:
  - (I) has in place protocols that will implement a GHG Tracking and Accounting System enabling the fair and timely tracking, reporting, and accounting of GHG emissions sufficient to ensure compliance with the emission reduction requirements in §§ 25-7-102 and 40-2-125.5, C.R.S.;
  - (II) has a plan to put in place policies and operational practices to optimize the efficient dispatch, exchange of energy, and unit commitment between markets, if there is more than one regional market construct operating or proposed to operate in Colorado; and

- (III) has sufficient modelling and other analytical support showing that the expected benefits of joining that market, including production cost decreases, reliability improvements, and emission reductions, are likely to exceed the expected costs.
- (b) At least 12 months ahead of commencing planned operations in a DAM, unless an alternative time frame is otherwise approved by the Commission, the transmission IOU shall submit an application consistent with rule 3002 and rule 3755 requesting that the Commission determine the transmission IOU's participation in the DAM is in the public interest based on the limited criteria identified in paragraph 3753(a). The application shall be filed with testimony and exhibits and shall be governed by the following procedures, unless otherwise directed by Commission decision.
  - (I) Upon receipt of the filing, the Commission will open an abbreviated adjudicatory proceeding, notice the filing, establish an intervention period for the purpose of establishing parties, and set a schedule for receiving written initial and responsive comments in a way that results in a written Commission decision within 150 days of the application filing.
  - (II) Parties may conduct discovery on the filing consistent with the limited criteria identified in paragraph 3753(a).
  - (III) The Commission will establish procedures for the proceeding that shall include one or more public comment hearings and, if necessary, an evidentiary hearing.
  - (IV) The transmission IOU bears the burden of proof as the proponent of the decision to participate in the DAM.
- (c) Participation in a DAM by a cooperative electric generation and transmission association shall be determined to be in the public interest if the Commission finds that the DAM the utility seeks to participate in:
  - (I) has in place protocols that will implement a GHG Tracking and Accounting System enabling the fair and timely tracking, reporting, and accounting of GHG emissions sufficient to ensure compliance with the emission reduction requirements in §§ 25-7-102 and 40-2-125.5, C.R.S.; and
  - (II) has a plan to put in place policies and operational practices to optimize the efficient dispatch, exchange of energy, and unit commitment between markets, if there is more than one regional market construct operating or proposed to operate in Colorado.
- (d) At least nine months ahead of commencing planned operations in a DAM, unless an alternative time frame is otherwise approved by the Commission, the cooperative electric generation and transmission association shall submit an application consistent with rule 3002 and rule 3755 requesting that the Commission determine that its participation in the DAM is in the public interest based on the limited criteria identified in paragraph 3753(c). The application shall be filed with testimony and exhibits and shall be governed by the following procedures, unless otherwise directed by Commission decision.

- (I) Upon receipt of the filing, the Commission will open an abbreviated adjudicatory proceeding, notice the filing, establish an intervention period for the purpose of establishing parties, and set a schedule for receiving written initial and responsive comments in a way that results in a written Commission decision within 150 days of the application filing.
- (II) Parties may conduct discovery on the filing consistent with the limited criteria identified in paragraph 3753(c).
- (III) The Commission will establish procedures for the proceeding that shall include one or more public comment hearings and, if necessary, an evidentiary hearing.
- (IV) The cooperative electric generation and transmission association shall bear the burden of proof as the proponent of the decision to participate in the DAM.

**3754. Transmission Utility Application to Join an RTO or ISO.**

- (a) A transmission IOU's decision to join an RTO or ISO shall be determined to be in the public interest if the Commission finds that the RTO or ISO the transmission IOU seeks to join qualifies as a Statutory OWM and satisfies the conditions identified in this paragraph. The Commission shall find that the RTO or ISO is in the public interest and qualifies as a Statutory OWM if the market satisfies the characteristics set forth in § 40-5-108(1)(a), C.R.S., including that the market:
  - (I) has in place a GHG Tracking and Accounting System that enables the fair and timely tracking, reporting, and accounting of GHG emissions sufficient to ensure compliance with the emission reduction requirements in §§ 25-7-102 and 40-2-125.5, C.R.S.;
  - (II) has FERC-approved Generator Interconnection Procedures and Agreements that enable timely implementation of Colorado's electric resource planning processes and ensure resource adequacy;
  - (III) has in place a regional resource adequacy construct;
  - (IV) results in just and reasonable rates for the utility's customers given its approaches to cost allocation, price formation, and market design;
  - (V) provides a clear and timely path forward for planning, building, and placing in service new transmission;
  - (VI) has in place policies and operational practices to optimize the efficient dispatch, exchange of energy, and unit commitment between markets if there is more than one regional market construct operating or proposed to operate in Colorado;
  - (VII) has detailed modelling and other analytical support demonstrating that the expected benefits of joining that market, including, at a minimum, production cost decreases, reductions in capacity requirements or costs, reliability improvements, and emission reductions, will materially exceed the expected costs;

- (VIII) has sufficient modelling and other analytical support demonstrating that the expected net benefits of participating in the particular market are similar to or exceed the net benefits of other available alternatives; and
  - (IX) is consistent with any other criteria that the Commission finds to be appropriate in making a determination that the market qualifies as a Statutory OWM and is in the public interest.
- (b) A transmission IOU's decision to join an RTO or ISO that does not qualify as a Statutory OWM shall be determined to be in the public interest if the Commission finds that the market satisfies the characteristics specified in subparagraphs 3754(a)(I)-(VIII), as well as any other appropriate criteria considered by the Commission.
- (c) At least 18 months ahead of commencing operations in the RTO or ISO, the transmission IOU shall submit an application consistent with rule 3002 and rule 3755 requesting that the Commission determine that its decision to join the RTO or ISO is in the public interest based on the criteria identified in paragraph 3754(a) or (b). The transmission IOU bears the burden of proof as the proponent of the decision to join an RTO or ISO.
- (d) A cooperative electric generation and transmission association's decision to join an RTO or ISO shall be determined to be in the public interest if the Commission finds that the RTO or ISO that the cooperative electric generation and transmission association seeks to join qualifies as a Statutory OWM. The Commission shall find that the RTO or ISO qualifies as a Statutory OWM if the market satisfies the characteristics specified in § 40-5-108(1)(a), C.R.S., including that the market:
- (I) has in place protocols that will implement a GHG Tracking and Accounting System enabling the fair and timely tracking, reporting, and accounting of GHG emissions sufficient to ensure compliance with the emission reduction requirements in §§ 25-7-102 and 40-2-125.5, C.R.S.;
  - (II) has a tariff that will put in place Generator Interconnection Procedures and Agreements that enable timely implementation of Colorado's electric resource planning processes and ensure resource adequacy through the end of 2030; and
  - (III) has a plan to put in place policies and operational practices to optimize the efficient dispatch, exchange of energy, and unit commitment between markets if there is more than one regional market construct operating or proposed to operate in Colorado.
- (e) A cooperative electric generation and transmission association's decision to join an RTO or ISO that does not qualify as a Statutory OWM shall be determined to be in the public interest if the Commission finds that the RTO or ISO that the utility seeks to join satisfies the characteristics specified in subparagraphs 3754(d)(I) through (III).
- (f) At least nine months ahead of commencing planned operations in an RTO or ISO, unless an alternative time frame is otherwise approved by the Commission, the transmission and generation cooperative shall submit an application consistent with rule 3002 and rule 3755 requesting that the Commission determine that its participation in the RTO or ISO is in the public interest based on the criteria identified in paragraph 3754(d) or (e). The application shall be filed with testimony



and exhibits and shall be governed by the following procedures, unless otherwise directed by Commission decision.

- (I) Upon receipt of the filing, the Commission will open an abbreviated adjudicatory proceeding, notice the filing, establish an intervention period for the purpose of establishing parties, and set a schedule for receiving written initial and responsive comments in a way that results in a written Commission decision within 150 days of the application filing.
  - (II) Parties may conduct limited discovery related to the criteria identified in subparagraphs 3754(d)(I) through (III).
  - (III) The Commission will establish procedures for the proceeding that shall include one or more public comment hearings and, if necessary, an evidentiary hearing.
  - (IV) The electric generation and transmission cooperative bears the burden of proof as the proponent of the decision to join an RTO or ISO.
- (g) If the Commission finds that a utility's decision to join an RTO or ISO that is not a Statutory OWM is in the public interest under paragraph 3754(b) or (e), and the transmission IOU or electric generation and transmission cooperative joins the RTO or ISO, the Commission may specify the filing date of the utility's application for waiver or delay in accordance with rule 3756.

**3755. Contents of Regional Market Participation Filings.**

For all filings made in accordance with rules 3753 and 3754, the transmission utility shall provide a market overview as identified in paragraph 3755(a) and shall address the characteristics of the market in paragraphs 3755(b) through (k). The filing shall be organized in a manner that specifically references, and responds to, the requirements contained in each of the following subparagraphs of this rule. To the extent the requested content is not applicable, the utility shall include a statement to that effect and a brief explanation as to why it is not applicable. The transmission utility shall provide workpapers in native format to support the information contained in the filing as appropriate.

- (a) Market overview. The transmission utility shall provide:
- (I) a description of all market services included in the proposed market;
  - (II) a map and description of the current scope of the market including a list of participating entities, description of the scope of generation and transmission assets currently participating, and a forecast of anticipated participation in the market;
  - (III) a description of greenhouse gas emission or clean energy policies applicable to both Colorado and, to the extent reasonably practicable, non-Colorado market participants;
  - (IV) a description of market processes and accounting including:
    - (A) terms and conditions for market entry and exit;
    - (B) generation and transmission bidding procedures and requirements;

- (C) provisions and procedures for self-scheduling of resources;
  - (D) generation unit commitment procedures;
  - (E) accounting for load served and generation provided;
  - (F) transmission congestion processes;
  - (G) policies regarding the promotion of clean energy resources, including:
    - (1) policies regarding the promotion of load flexibility and demand-side resources;
    - (2) policies and procedures for capacity accreditation of resources including thermal and renewable resources; and
    - (3) policies regarding the participation of distributed energy resources in energy markets, including compliance with the requirements of FERC Order 2222;
  - (H) policies and operational practices regarding seams with adjoining regional markets, including policies regarding the reduction of costs and inefficiencies of transactions between balancing areas and between marketing constructions;
  - (I) other market processes and requirements as appropriate; and
  - (J) a description of greenhouse gas emission or clean energy policies applicable to both Colorado and, to the extent reasonably practicable, non-Colorado market participants.
- (b) FERC approval status. The transmission utility shall provide a description of the FERC market approval status and description of any on-going FERC processes or approvals being sought, including, at a minimum:
- (I) all relevant FERC proceeding numbers with a description of the approval sought, addressing approval of the market construct; and
  - (II) all relevant FERC proceeding numbers with a description of the approval sought, addressing approval of the particular utility entry into the proposed market.
- (c) Separation of transmission and generation facility control. The transmission utility shall provide a description of the control of transmission facilities as separate from the control of generation facilities, including:
- (I) a detailed description of the operational and legal control of transmission facilities. Provide policies and procedures regarding legal and operational control of transmission facilities; and
  - (II) a detailed description of the operational and legal control of generation facilities.

- (d) Transmission rates. The transmission utility shall provide a description of the methodology to establish transmission rates including policies and procedures designed to minimize pancaking of transmission rates in the state of Colorado, including:
  - (I) the methodology for establishing transmission rates among market and non-market participants including a description of the changes required to an applicable OATT; and
  - (II) a description of how the proposed market policies and procedures minimize the pancaking of transmission rates.
- (e) Reliability and resource adequacy. The transmission utility shall provide an assessment of the impact to long-term and short-term reliability as a result of the proposed market participation, including:
  - (I) a description of market rules and processes to ensure resource adequacy in both the operational and planning time frames; and
  - (II) a description of the interaction between the market processes and procedures regarding resource adequacy and the Commission's resource planning processes.
- (f) Costs and benefits analysis. The transmission utility shall provide an assessment of the costs and benefits of the proposed market participation, including:
  - (I) an analysis of customer benefits and costs of market participation, including, at a minimum, production cost decreases, reductions in capacity requirements or costs, reliability improvements, and emission reductions;
  - (II) for a transmission IOU, a forecast of total retail rate impact for 15 years after joining a regional DAM, RTO or ISO, including:
    - (A) forecast of transmission rates and impact on retail and wholesale transmission revenues;
    - (B) forecast of generation rates and impact on retail and wholesale generation revenues;
    - (C) a description and forecast of all market participation fees, including but not limited to entry fees, exits fees, administrative fees, and all capital and operating costs associated with market entry or on-going market participation; and
    - (D) forecast of any other relevant costs and benefits.
- (g) Market governance. The transmission utility shall provide a description of the governance structure of the proposed market, including:
  - (I) an overview of governance structure, including:
    - (A) a description of market committees including committee authorities, committee participation and representation, and meeting standards and practices;

- (B) processes and conditions for board selection;
  - (C) decision making processes;
  - (D) other governance structures such as working groups and task forces; and
  - (E) a description of the market monitor including structure, authorities, and processes;
- (II) a description of how the governance structure and decision-making processes provide state representatives the access and authority necessary to ensure state concerns are substantively addressed. This should include information regarding:
- (A) existing or planned state committee's role, authority, funding, and access to the independent board and other decision-making entities;
  - (B) mechanisms through which the state committee and other state representatives engage in policy issue discussions and initiative prioritization;
  - (C) a state's role in independent board selection; and
  - (D) state committee access to market performance data, including independent market monitor information and market analyses;
- (III) a demonstration that the governance or control is independent of the ownership and operation of the transmission facilities; and
- (IV) a demonstration that no member of the board of directors has an affiliation with a user or with an affiliate of a user during the member's tenure on the board so as to unduly affect the market's performance.
- (h) Emission reduction improvements. The transmission utility shall provide a demonstration that the market improves emission-reduction benefits to Colorado customers from operation within the Western Interconnection without significantly impairing actions taken by public utilities to meet the state's emission-reduction goals, including:
- (I) a description of the GHG Tracking and Accounting Mechanism for tracking and reporting greenhouse gas emissions across the market region and system for attributing emissions to transmission owners and other load-serving entities;
  - (II) a description of GHG-based market design, including only to the extent it is a feature of the market construct, any dispatch optimization and costs associated with emissions policies in the market footprint;
  - (III) a forecast of the impact of market participation on greenhouse gas emissions for the next 15 years; and

- (IV) the transmission utility shall demonstrate that the market includes transmission and generation resources approved, acquired, or constructed and in service by 2030 to meet emission reduction requirements pursuant to §§ 25-7-102 and 40-2-125.5, C.R.S.
- (i) Stakeholder process. The transmission utility shall provide a demonstration that the market has an inclusive and open stakeholder process that does not place unreasonable burdens on, or preclude meaningful participation by, any stakeholder group.
- (j) Transmission planning, cost allocation and expansion. The transmission utility shall assess whether the market is consistent with and in support of FERC policies and orders and local planning by Colorado public utilities and Commission rules and shall provide a description of whether the market is capable of:
  - (I) planning for improved efficiency of use, future expansion, and consideration of all options for meeting transmission needs;
  - (II) providing effective cost allocations for both existing and new transmission facilities that reflect benefits of transmission investments;
  - (III) maintaining real-time reliability of the electric transmission system while promoting more efficient use of the transmission system in Colorado and in neighboring areas in the Western Interconnection;
  - (IV) ensuring comparable and non-discriminatory transmission access and necessary services;
  - (V) minimizing system congestion; and
  - (VI) further addressing real or potential transmission constraints.
- (k) Interconnection. The transmission utility shall assess the market's transmission interconnection access, interconnection request processes and queue management, if applicable, including the following information:
  - (I) a description of the market's current interconnection request process, processes for allocation of interconnection resources, and queue management;
  - (II) a description of any active or expected initiatives proposing to modify the interconnection access and request process, including information about any application with FERC for approval of modifications;
  - (III) an explanation of how the current and/or proposed interconnection request process discourages speculative interconnection requests and/or fast-tracks requests for projects approved through utility planning processes;
  - (IV) data characterizing the current interconnection queue status, including at a minimum: MWs of each resource type in each queue stage, average time from interconnection request to signed interconnection agreement, forecast for processing existing queued

resources, and any other information necessary to understand how well the queue process is functioning; and

- (V) an explanation of how participating in the market will impact current and future requests for interconnection to the utility's transmission system and how this will affect resource planning proceedings.

**3756. Transmission Utility Application Seeking a Waiver or Delay.**

- (a) If a transmission utility will require a waiver or delay in accordance with § 40-5-108(2), C.R.S., the transmission utility shall file an application for a waiver or delay no earlier than June 1, 2027 unless otherwise directed by Commission decision, and no later than June 1, 2029, pursuant to the provisions outlined below.
- (b) A transmission utility's application for a waiver or delay of the requirement set forth in § 40-5-108(2)(a)(I), C.R.S., to join a Statutory OWM on or before January 1, 2030, shall state whether the utility requests a waiver or a delay of a specified time period. The application shall set forth good cause for the waiver or delay and shall include:
  - (I) a description of the utility's efforts to join a Statutory OWM by the January 1, 2030 deadline;
  - (II) for each RTO or ISO in which the utility could reasonably participate, an explanation of why the market does not satisfy the characteristics of a Statutory OWM;
  - (III) for each Statutory OWM in which the utility could reasonably participate, an explanation of why joining the market is not in the public interest and a description of the market, including if applicable, the market's:
    - (A) policies regarding tracking and reporting of greenhouse gas emissions and assignment of emissions to transmission owners;
    - (B) policies regarding the promotion of load flexibility and demand-side resource;
    - (C) policies regarding the promotion of clean energy resources; and
    - (D) policies regarding the reduction of costs and inefficiencies of transactions between balancing areas and between market constructs;
  - (IV) the results and supporting documentation of any analysis performed by, on the behalf of, or at the request of the transmission utility concerning:
    - (A) the availability of a Statutory OWM in which the utility could reasonably participate; and
    - (B) impacts, costs, or benefits of participation in a particular OWM, including costs or benefits to ratepayers and impacts of participation on emissions reduction goals.

**3757. Reporting and Stakeholder Process Requirements.**

- (a) Annual progress reporting. Beginning June 1, 2025, each transmission utility shall file with the Commission an annual report describing the current status of its activities related to participating in a regional market. This reporting shall continue annually through June 1, 2029, unless the Commission has rendered a decision finding that the transmission utility has joined a Statutory OWM in accordance with rule 3754 or the Commission has granted the transmission utility a waiver pursuant to rule 3756. At a minimum, this report shall include:
  - (I) identification of any regional market in which the utility is currently a member and the date on which that membership began;
  - (II) a description of the utility's efforts to join a Statutory OWM or other regional market by the January 1, 2030 deadline, including information addressing each of the topics listed in paragraphs 3755(a) through (k) and updates to the activities discussed in the previous report, if applicable; and
  - (III) in the June 1, 2028 report, if required, an indication of whether at the time of filing the utility intends to file an application for waiver or delay of the requirement to join a Statutory OWM by January 1, 2030.
- (b) Stakeholder meetings and Commission Information Meetings. Each transmission utility shall schedule and conduct a meeting for interested stakeholders during the second calendar quarter following each of its annual progress reports. The transmission utility shall provide reasonable notice of the date and time of the meeting to all stakeholders that have expressed an interest in the subject. The transmission utility shall present current information addressing the topics listed in paragraphs 3755(a) through (k) to the extent it is reasonably available at the time of the meeting. Stakeholders may submit pertinent information and questions on any of the topics in paragraphs 3755(a) through (k) for the transmission utility's consideration and response at or following the meeting.
- (c) Informational notice regarding market commitment. Within 30 days of entering a commitment to pursue participation in any regional market or regional resource adequacy construct, the transmission utility shall file with the Commission a notice of this action. The notice shall include a detailed description of the market, the terms of the commitment, the timeline for participation and the expected timeframe for filing an application with the Commission, if applicable.
- (d) For transmission utilities participating in a DAM, RTO or ISO, annual ongoing market participation impact report. Each June 1 that is 12 or more months after the utility commences operations in any regional market, the utility shall file an annual participation impact report for the prior calendar year providing an assessment of the costs, benefits, and other consequences of participating in that regional market. At a minimum, this report shall include:
  - (I) an overview of the market including services provided, entities participating, and description of the scope of generation and transmission assets currently participating and forecast to participate;

- (II) accounting of the costs incurred to join or participate in the market and the status of recovering those costs. Include, at a minimum, all administrative, operating, and capital costs associated with market participation;
- (III) calculation of the gross and net benefits (or costs) including the benefits sharing to retail ratepayers of the utility's participation in the market, including a breakdown of those benefits by cost category and an explanation of how and when those benefits were realized by ratepayers;
- (IV) a detailed assessment of the emissions impact of market participation;
- (V) an explanation and assessment of the impacts of market participation on transmission costs paid by retail customers, if applicable; and
- (VI) all supporting data, documentation and workpapers related to the analyses in the impact report.

**3758. Cost Recovery.**

- (a) Unless otherwise allowed by a Commission decision, a transmission IOU shall not recover costs associated with its participation in a DAM or RTO or ISO until the Commission has entered an order determining that the utility's participation in the market is in the public interest.
- (b) Any transmission IOU seeking to recover the costs of regional market participation shall address market terms and conditions including entry and exit fees and market durability in any application or advice letter seeking recovery of such costs, or shall specify where in a prior proceeding, this information was provided.
- (c) In any filing made pursuant to rule 3753 or 3754 in which the transmission IOU seeks cost recovery, the transmission IOU shall address the anticipated changes to tariffs and any changes to Commission processes needed to implement market participation, including, where applicable:
  - (I) an estimate of all costs of market implementation and operation, including the timing and process or recovery of market related costs. Provide estimates for all costs, including market entry and exit fees, on-going administrative fees, and capital and operations and maintenance costs associated with market participation;
  - (II) energy commodity adjustment tariff, rules, accounting and processes;
  - (III) transmission cost adjustment tariff, rules, accounting and processes;
  - (IV) recovery of administrative market fees;
  - (V) modification of market trading rules; and
  - (VI) any other tariff or process changes needed to implement utility market participation.



**3759. Application for Shared Savings from OWM Participation.**

- (a) Pursuant to § 40-5-108(3), C.R.S., the Commission shall allow a transmission IOU that commences operation with a Statutory OWM, as determined by the Commission in accordance with rule 3754, to collect and retain a specified percentage of the demonstrated net present value savings accruing to Colorado customers from participation in the Statutory OWM for a maximum period of five years beginning on the date the transmission utility commences operation with the Statutory OWM, however this period shall not extend beyond July 31, 2033. The Commission shall allow a transmission IOU to retain:
  - (I) up to 35 percent of such savings in years one and two;
  - (II) up to 25 percent in year three; and
  - (III) up to 20 percent in years four and five.
- (b) A transmission IOU may apply to the Commission to implement a proposed shared savings approach and to establish a proceeding to determine the net present value savings accruing to Colorado customers from the participation of the transmission utility in a Statutory OWM.
- (c) An application requesting to retain a portion of the net present value savings shall include:
  - (I) the methodology to determine the annual net present value savings accruing to Colorado customers;
  - (II) the proposal for sharing mechanism approach;
  - (III) the methodology for implementing the sharing mechanism including all necessary tariff changes; and
  - (IV) all assumptions, formulas, data, calculations, and annual time periods used in the application, in executable format with all formulas intact.
- (d) The transmission IOU shall have the burden of proof to demonstrate the annual net present value of savings accrued to Colorado customers.
- (e) Any shared savings approach proposed by a transmission IOU must include a mechanism to true up annual savings retained based on demonstrated savings.

**3760. – 3799. [Reserved].**