

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.

**INTERIM ORDER OF
HEARING COMMISSIONER
JAMES K. TARPEY
GRANTING MOTION FOR EXTENSION OF TIME**

Mailed Date: August 18, 2010

I. STATEMENT

A. Background

1. On July 28, 2010, the Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) regarding its Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3. This NOPR was established to consider new transmission planning rules. The Commission also designated Commissioner James K. Tarpey as Hearing Commissioner.

2. On August 12, 2010, Public Service Company of Colorado (Public Service) and Tri-State Generation and Transmission, Inc. (Tri-State) filed a Joint Motion to modify the procedural schedule set in Decision No. C10-0797. Public Service and Tri-State also requested that response time to the Joint Motion be shortened to August 13, 2010.

3. Specifically, the Joint Motion requests that the Hearing Commissioner extend the comment filing date by at least 60 days. Public Service and Tri-State argue that these rules require more deliberate consideration than the present schedule allows. Further, Public Service

and Tri-State contend that it will take time to gather comments from the CCPG members and formulate those into initial comments for the rulemaking. It is clear from the proposed rules that the Commission expects CCPG to have an integral role going forward in this transmission planning process, so the coordination of the members' input would aid the process.

4. On August 13, 2010, the Colorado Independent Energy Association (CIEA) filed a response to the Joint Motion. CIEA states that it supports Public Service and Tri-State's request for an additional 60 days to file comments and joins in the Joint Motion.

B. Analysis

5. The Hearing Commissioner will grant the Joint Motion, in part. The Hearing Commissioner understands that the coordination of comments from all members of CCPG may take some time. Due to obligations in other dockets as well as a desire to move this rulemaking along, the Hearing Commissioner will grant an additional 50 days, to October 15, 2010 in which to file comments on the proposed rules. This extension also necessitates changing the dates for reply comments to October 29 and the hearing date to November 5, 2010.

6. The Hearing Commissioner may set additional hearing dates and notes that specific issues such as the definition of and requirements for the 20-year long-term conceptual plan may necessitate the scheduling of separate workshops.

II. ORDER

A. The Commission Orders That:

1. The Joint Motion filed on August 12, 2010 by Public Service Company of Colorado and Tri-State Generation and Transmission, Inc., is granted, in part, consistent with the above discussion.

2. Comments on the proposed transmission planning rules are due October 15, 2010. Reply comments are due October 29, 2010.

3. A hearing on the proposed rules and related matters shall be held before Hearing Commissioner James Tarpey as follows:

DATE: Friday, November 5, 2010
TIME: 9:00 A.M.
PLACE: Commission Hearing Room A
1560 Broadway, Suite 250
Denver, Colorado

4. The hearing currently set for September 9, 2010 will be held for the limited purpose of receiving comments from those not aware of the rescheduled hearing date.

5. The Hearing Commissioner may set additional hearings, if necessary.

6. This order is effective on its mailed date.

(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

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DOCKET NO. 10R-526E

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

NOTICE OF PROPOSED RULEMAKING

Mailed Date: July 28, 2010
Adopted Date: July 28, 2010

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) hereby issues a Notice of Proposed Rulemaking (NOPR) regarding its Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3.

2. The statutory authority for the proposed rules is found in §§ 29-20-108, 40-2-108, 40-2-126, 40-3-102, 40-3-103, 40-3-111, 40-3-114, 40-4-101, 40-4-108, 40-5-101, 40-5-103, and 40-9.5-107, C.R.S.

B. Policy objectives

1. Overview

3. In this NOPR, the Commission makes certain findings and introduces proposed transmission planning rules in large part based on the input provided by all interested parties in Docket Nos. 08I-227E and 09M-616E. The Commission finds that the input provided in the workshops and written comments conducted in these dockets has been helpful and will discuss such input below as it relates to specific issues.

4. Relatively recent legislative and policy changes impacted transmission planning significantly by adding germane criteria in addition to reliability and cost into consideration. These legislative and policy changes include Senate Bill 07-100, codified at §§ 40-6-126 and 40-5-101, C.R.S., applicable to certain electric transmission facilities; § 40-2-124, C.R.S., which requires utilities to generate or cause to be generated electricity from eligible energy resources in certain minimum amounts; House Bill 10-1001, codified at § 40-2-124, C.R.S., which establishes distributed generation set-asides, and § 40-2-123(1), C.R.S., which requires the Commission to give the fullest possible consideration to cost-effective implementation of new clean energy and energy efficient technologies. These legislative and policy changes require a more complex decision-making and the Commission to become more involved in transmission planning (similar to resource generation planning). The Commission concludes that both state-wide coordinated transmission planning and a meaningful involvement in such planning by

stakeholders and the Commission are essential. In addition, an effective transmission planning approach needs to be long-term and pro-active rather than just-in-time and reactive.

5. For example, a large-scale renewable generation project such as a large wind farm can be built faster than the interconnecting substation, assuming no additional transmission lines are needed. However, renewable generation typically is located in remote areas without sufficient transmission infrastructure. Therefore, it is prudent to plan for renewable generation resources and associated additional transmission infrastructure in a coordinated manner. This is different from a historical case where the time necessary to construct a large coal generation facility was commensurate with the time needed to build the requisite transmission infrastructure.

2. The Colorado Coordinated Planning Group

6. The Colorado Coordinated Planning Group (CCPG) is a planning forum whose mission it is to ensure a high degree of reliability in joint planning, development, and operation of the high voltage transmission system. The fundamental principle underlying CCPG activities is that planning for the transmission system will be done as if it were a single-system. The goal of such planning is the most efficient utilization of the existing transmission system and results in additions, upgrades and enhancements to the system as if it were owned by a single entity. The single system planning concept includes an evaluation of both technical and economic factors.

7. The goals of CCPG are to (1) promote efficient use of the electric transmission system; (2) avoid duplication of transmission facilities; (3) facilitate joint development of robust transmission systems to support a variety of resources; (4) provide a forum for discussion of access to renewable energy resources; (5) meet NERC (North American Electric Reliability Corporation) and WECC (Western Electricity Coordinating Council) reliability standards,

criteria, policies, and guidelines; (6) coordinate regional and sub-regional transmission planning activities; and (7) provide a forum for interaction with regulatory bodies and other stakeholders as plans are developed. The CCPG operates based on the nine principles promulgated by the Federal Energy Regulatory Commission (FERC) in its Order 890.¹ Therefore, membership in CCPG is open to any stakeholder. CCPG is a forum for the exchange of information, including all criteria, assumptions, and data that underlie the studies performed. CCPG coordinates the needs of all Colorado stakeholders and planning groups in neighboring states, and evaluates a wide variety of alternatives, including non-transmission alternatives. It also provides a forum to evaluate impacts of proposed transmission or energy policy changes at the state and federal levels. Studies performed within CCPG are summarized in reports that are available for general review.

8. CCPG is also a formal sub-regional planning group under WestConnect. CCPG is required to develop annually, a ten-year integrated regional transmission plan for its footprint. CCPG performs studies in order to (1) meet forecasted load requirements; (2) comply with all applicable reliability criteria; (3) identify transmission system expansions that facilitate competition and reliability objectives; (4) avoid unnecessary duplication of facilities; (5) evaluate simultaneous import capabilities; (6) comply with legal and regulatory obligations with regard to transmission, including conformance with resource adequacy requirements and renewable portfolio standards; (7) evaluate a broad range of assumptions and alternatives; (8) analyze feasibility and costs of alternative projects; (9) allow participation and comment by all interested parties in all phases of the planning process; (10) coordinate with WECC and other sub-regional planning efforts; (11) utilize to the maximum extent practicable, open season

¹ See CCPG Charter, January 2010, www.westconnect.com/filestorage/CCPG%20Charter%20Jan2010.pdf.

solicitation, multi-party transmission ownership, and the potential co-existence of both physical and financial transmission rights for transmission projects; and (12) adhere to applicable WECC procedures in releasing base cases to stakeholders.

9. The participants in Docket No. 09M-616E expressed different viewpoints on the appropriate roles of the Commission and CCPG with respect to state-wide transmission planning going forward. These viewpoints ranged from continued reliance on CCPG with no changes in its operation to the Commission or another regulatory body engaging in transmission planning functions directly.

10. The Commission understands that state-wide coordinated transmission planning already occurs in Colorado to a certain extent. The Commission also believes that, to the extent possible and appropriate, existing institutions and long-standing practices should be incorporated into the new transmission planning rules, to avoid duplication of work that is already being done or will be done by CCPG. In Docket No. 09M-616E, CCPG has informed the Commission that it has formed a Conceptual Planning Work Group, whose goal it is to review transmission planning scenarios beyond the traditional ten year reliability studies.² Further, CCPG revised its charter in January 2010.

11. The CCPG consists of an Oversight Committee, a Steering Committee, electrical geographic-based subcommittees, and work groups and task forces. The Oversight Committee consists of a Transmission Provider Group and an Advisory Group. The Transmission Provider Group consists of Transmission Providers that provide open access transmission services within the CCPG footprint. The Advisory Group consists of all other CCPG members.³

² See CCPG Comments, filed March 19, 2010, in Docket 09M-616E.

³ See CCPG Charter, January 2010, www.westconnect.com/filestorage/CCPG%20Charter%20Jan2010.pdf.

12. The goal of the CCPG is to achieve consensus on all pending items. However, in the event a consensus within the Oversight Committee is not possible, the simple majority of the Transmission Provider Group will determine the outcome and the vote of the Advisory Group is recorded for subsequent review. The Advisory Group is also provided an opportunity to submit an explanation for the difference in opinion from the Transmission Provider Group.⁴

13. The Commission agrees with the principles of consensus-building, stakeholder inclusiveness and long-term conceptual planning that are included in the new CCPG charter. The proposed transmission planning rules therefore will assume a reliance on CCPG as the primary means by which the jurisdictional electric utilities will develop the ten-year transmission plans and the twenty-year conceptual plans, in consultation with other CCPG members and stakeholders. The Commission selects this approach among all of the viewpoints expressed by the parties in Docket No. 09M-616E. In doing so, the Commission expects that CCPG will follow the letter and the spirit of its charter, will be sufficiently staffed and funded, and will determine how to allocate responsibilities among the participants.

14. Public Service Company of Colorado (Public Service), Black Hills/Colorado Electric Utility Company, LP (Black Hills), and Tri-State Generation and Transmission, Inc. (Tri-State) are members of CCPG who are also transmission providers. The electric transmission facilities of these utilities fall within the jurisdiction of the Commission. Other CCPG members who are transmission providers include Western Area Power Administration (WAPA), Colorado Springs Utilities, Platte River Power Authority, and Basin Electric Power Cooperative.

15. In proposing these transmission planning rules, the Commission does not intend to increase significantly the workload of the electric utilities subject to its jurisdiction beyond

⁴ *Id.*

what they are or should be doing, but recognizes that some additional work may be required to fully implement the proposed rules. The intent is also not to burden the transmission providers that are not subject to the jurisdiction of the Commission. The Commission believes that the jurisdictional utilities will take a leadership role in performing the transmission planning work within CCPG.

16. For example, all electric utilities already prepare a biennial ten-year transmission plan under the auspices of CCPG, utilizing the single-system planning concept with participation of all interested stakeholders and coordination with neighboring planning areas. Further, the data that will be filed with the Commission is already required to be publicly available. The tariffs of each electric utility already require performance of economic studies. Finally, WECC routinely conducts long-range conceptual planning studies. The proposed rules will require the jurisdictional utilities to perform long range conceptual planning studies on the issues unique to Colorado, hopefully under the auspices of CCPG. Because the transmission line permitting process is unique to Colorado, active outreach will be made to local regulatory agencies and other stakeholders throughout the planning process.

17. The Commission finds the proposed transmission planning rules to be consistent with CCPG's mission and its role vis-à-vis WECC, NERC, and FERC. The Commission fully supports the planning principles set forth by FERC in its Order 890, which include the concepts of an open, transparent, and inclusive planning process. The Commission also finds the proposed rules to be consistent with a rulemaking recently commenced by FERC that pertains to regional transmission planning and cost allocation (Docket No. RM10-23-000). The Commission further endorses the concept that planning should be done on a comprehensive and state-wide basis and take the needs of all stakeholders into account.

3. Biennial filings

18. The proposed rules set forth the general objectives underlying the filing of the ten-year transmission plans, twenty-year conceptual plans, and associated economic studies that the jurisdictional electric utilities will develop through CCPG. The proposed rules set forth when the utilities will file their plans and list specific information that should be included in the filings. The proposed rules also contemplate an interaction between the biennial transmission planning, CPCN proceedings, electric resource planning, and Senate Bill 100 processes.

19. The jurisdictional utilities will submit their biennial filings in February of even-numbered years. These utilities are expected to do so jointly and in conjunction with CCPG. The jurisdictional utilities (except for Tri-State) will have submitted their SB 100 filings several months earlier, in October of odd-numbered years and will be able to incorporate the information developed as part of these proceedings into the transmission plans. Further, if the utilities file transmission plans in February of even numbered years, the transmission planning docket will conclude before Electric Resource Planning (ERP) Phase II proceedings commence. The Commission expects that the information developed in the biennial transmission planning dockets will improve the robustness of the ERP Phase II bidding process and will enable bidders to submit more focused bids in the ERP dockets involving Public Service and Black Hills. The Commission also expects that this information will be useful in the resource planning procedures recently adopted by Tri-State. *See* Decision No. C10-0101, mailed February 4, 2010 in Docket No. 09I-041E, at ¶¶8-10.

20. Because of the timing associated with the rulemaking process and implementation of the new rules, the Commission proposes to require the jurisdictional utilities to file their first

transmission plans in February 2011 rather than waiting until February 2012. The Commission invites all interested parties to comment on this matter.

21. The proposed rules envision that, in reviewing a biennial filing, the Commission will focus on the later years of the ten- year plan and provide feedback regarding the assumptions underlying those years. This will allow the jurisdictional utilities and CCPG as a whole to utilize this feedback in preparing the next biennial filing. On the other hand, the earlier years of the ten-year plan will have already been reviewed in previous biennial filings and verified during CPCN proceedings. Finally, the Commission intends for the twenty-year conceptual plans and economic studies to provide background for the ten-year transmission plans.

22. One intent of the proposed rules is to provide useful information to the parties and the Commission in a subsequent CPCN proceeding. The stakeholders and the Commission will be better able to assess the need for a transmission facility and how it fits into a larger state-wide transmission plan. The Commission expects that this will facilitate the resolution of subsequent CPCN proceedings in a more expeditious manner.

23. The Commission finds that effective state-wide coordinated transmission planning will identify new opportunities for all stakeholders that may not be identified in the transmission planning processes of individual transmission providers. Such transmission planning could also better facilitate the integration of location-constrained renewable energy resources.

24. The Commission expects that the proceedings envisioned by the proposed rules will identify stakeholder concerns and provide an opportunity to resolve these concerns prior to the filing of CPCN applications. The biennial proceedings will also provide an opportunity for the jurisdictional utilities to receive Commission input before the filing of CPCN application.

The Commission will address public policy issues that will provide guidance to the utilities and CCPG in their development of future transmission plans.

25. The proposed transmission planning rules contemplate that the Trial Staff of the Commission may participate in the CCPG proceedings. However, Trial Staff will not represent either the Commission or the Commissioners.

26. The Commission also contemplates that a representative of its Advisory Staff may participate before CCPG, albeit to a lesser degree than Trial Staff. The Advisory Staff will focus on the process by which the transmission plans will have been developed and whether such process fairly considered the input by non-transmission owners and complied with statutory and rule-based requirements. The Advisory Staff will be neutral with respect to specific plan contents.

4. Outreach to stakeholders

27. The Commission finds that state-wide coordinated transmission planning must be open to all stakeholders and address both reliability and economic considerations to be effective. Transmission customers and other interested parties must have an opportunity to meaningfully participate in all stages of that process.

28. The CCPG Charter provides that CCPG meetings and membership shall be open to all interested stakeholders. The proposed rules provide that, in their biennial filings, the utilities shall identify the outreach to interested stakeholders that occurred in the development of the ten and twenty year transmission plans. The Commission believes that early stakeholder outreach is consistent with the CCPG Charter.

29. By way of guidance, outreach should include stakeholders such as affected local, state, and federal agencies; affected landowners located in the corridors in which the facilities

proposed in the transmission plan may be located; not-for-profit and community-based groups whose mission may be affected by the projects proposed in the transmission plan; and all other stakeholders that previously participated in the CCPG proceedings and requested a notice of such proceedings. This outreach will occur early in the planning process where problems have been identified and alternatives are being developed. It will also occur later in the planning process where alternatives have been evaluated but before the recommended alternative is selected.

30. The Commission will provide notice to all interested parties that have participated before the CCPG and all interested parties that have requested a notice of transmission planning filings. The Commission will invite all interested parties to file comments and participate in the workshops, Commission Information Meetings, and other proceedings that may be held as part of the biennial transmission planning dockets.

C. Miscellaneous

31. Rules not specifically discussed in this NOPR do not constitute a portion of this NOPR. The Commission is not proposing any changes to the rules not specifically discussed in this NOPR.

32. The proposed rule will be published in the August 10, 2010 edition of *The Colorado Register*. Interested persons may acquire a copy of the proposed rule, either in hard-copy from the Commission's Administrative Service Section, which may be contacted by phone or email at 303.894.2884 or Elizabeth.hayes@dora.state.co.us, respectively. The proposed rule will also be available through the Commission's Electronic filing system.

33. The Commission requests comments from interested parties on the goals expressed in the rules, the specific information that should be provided with the filings, and the relationship between different types of filings. The Commission also requests that interested

parties limit their comments to the proposed rule changes only. The instant rulemaking should not be construed as an opportunity to reopen issues resolved in preceding rulemakings.

34. Hearing Commissioner James Tarpey will conduct a hearing on the proposed rules and related issues at the below-stated time and place. Interested persons may also submit written comments on the proposed rules, including data, views, or arguments, and present these orally at hearing unless the Hearing Commissioner deems oral presentations unnecessary. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. If interested persons wish to file comments before the hearing, the Commission requests that such comments be filed no later than August 25, 2010. Reply comments should be submitted by September 1, 2010. The Commission will consider all submissions, whether oral or written.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the August 10, 2010, edition of *The Colorado Register*.

2. Commissioner James Tarpey is assigned to this matter as Hearing Commissioner.

3. A Hearing on the proposed rules and related matters shall be held before Hearing Commissioner James Tarpey as follows:

DATE: Thursday, September 9, 2010

TIME: 9:00 A.M.

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

4. The Hearing Commissioner may set additional hearings, if necessary.

5. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Hearing Commissioner finds oral comments are unnecessary. Interested persons may file written comments in this matter before hearing. The Commission prefers that such pre-filed comments be submitted no later than August 25, 2010. Reply comments should be submitted by September 1, 2010.

6. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 28, 2010.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RONALD J. BINZ

JAMES K. TARPEY

MATT BAKER

Commissioners