

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13R-1151E

IN THE MATTER OF THE PROPOSED AMENDMENTS PURSUANT TO HOUSE BILL
13-1292 TO THE RULES REGULATING ELECTRIC UTILITIES 4 CODE OF COLORADO
REGULATIONS 723-3.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
ISSUING SUPPLEMENTAL NOTICE
OF PROPOSED RULEMAKING
SETTING ADDITIONAL HEARING**

Mailed Date: April 4, 2014

I. STATEMENT

1. The Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) on November 12, 2013 by Decision No. C13-1361, to amend the rules regulating electric utilities contained in 4 *Code of Colorado Regulations* 723-3, consistent with House Bill (HB) 13-1292. HB 13-1292 was enacted by the 2013 General Assembly and signed into law by Governor Hickenlooper on May 24, 2013.

2. HB 13-1292 modifies § 40-2-129, C.R.S., by specifying that, when evaluating utility requests for a Certificate of Public Convenience and Necessity for the construction or expansion of generating facilities, including pollution control and fuel conversion projects of existing coal-fired plants, the Commission shall consider, on a qualitative basis, factors that affect employment and the long-term economic viability of Colorado communities.

3. The NOPR, with attached proposed rules, also scheduled an initial hearing on the proposed rules for January 16, 2014. The Commission also referred the rulemaking to

an Administrative Law Judge (ALJ). The matter was subsequently assigned to the undersigned ALJ.

4. At the scheduled date and time, the rulemaking public hearing was held. As part of the discussion by the parties, the ALJ was informed that the parties were in discussions as to whether consensus was possible regarding certain amendments to the Commission's proposed rules. On March 3, 2014, Public Service filed a Status Report and Request for Hearing, in which it states that the parties have reached a consensus proposal and request that a new hearing date be set to present those results to the ALJ.

5. Good cause is found to set an additional hearing in this matter to take additional comment on the parties' proposed amendments to the Commission's rules.

6. The proposed rules in legislative (*i.e.*, strikeout/underline) format are available through the Commission's Electronic Filings system at:

https://www.dora.state.co.us/pls/efi/EFL.Show_Docket?p_session_id=&p_docket_id=13R-1151E

II. ORDER

A. It Is Ordered That:

1. This Supplemental Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the April 25, 2014, edition of *The Colorado Register*.

2. A hearing on the proposed rules and related matters shall be held as follows:

DATE May 15, 2014
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

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

3. Interested persons may file written comments in this matter before hearing. Pre-filed comments are to be submitted no later than April 24, 2014, and any pre-filed comments responsive to the initial comments are to be submitted no later than May 1, 2014. The Commission will consider all submissions, whether oral or written.

4. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

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[indicates omission of unaffected rules]

3102. Certificate of Public Convenience and Necessity for Facilities.

- (a) A utility seeking authority to construct and to operate a facility or an extension of a facility pursuant to § 40-5-101, C.R.S., shall file an application pursuant to this rule. The utility need not apply to the Commission for approval of construction and operation of a facility or an extension of a facility which is in the ordinary course of business. The utility shall apply to the Commission for approval of construction and operation of a facility or an extension of a facility which is not in the ordinary course of business.
- (b) An application for certificate of public convenience and necessity to construct and to operate facilities or an extension of a facility pursuant to § 40-5-101, C.R.S., shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required in rules 3002(b) and 3002(c).
 - (II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application or citation to any Commission decision that is relevant to the proposed facilities.
 - (III) A description of the proposed facilities to be constructed.
 - (IV) Estimated cost of the proposed facilities to be constructed. If the facility is a transmission facility, the estimated costs shall be itemized as land costs, substation costs, and transmission line costs.
 - (V) Anticipated construction start date, construction period, and in-service date.
 - (VI) A map showing the general area or actual locations where facilities will be constructed, population centers, major highways, and county and state boundaries.
 - (VII) As applicable, electric one-line diagrams.

- (VIII) As applicable, information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives.
 - (IX) As applicable, a report of prudent avoidance measures considered and justification for the measures selected to be implemented.
 - (X) For transmission construction or extension, the utility shall also comply with rule 3206.
- (c) For an application for a certificate of public convenience and necessity for construction or extension of transmission facilities, the applying utility shall describe its actions and techniques relating to cost-effective noise mitigation with respect to the planning, siting, construction, and operation of the proposed transmission construction or extension. The applying utility shall provide computer studies which show the potential noise levels expressed in db(A) and measured at the edge of the transmission line right-of-way. These computer studies shall be the output of utility standard programs, such as EPRI's EMF Workstation 2.51 ENVIRO Program -- Bonneville Power Administration model. The steps and techniques may include, without limitation, the following:
- (I) Bundled conductors.
 - (II) Larger conductors.
 - (III) Design alternatives considering the spatial arrangement of phasing of conductors.
 - (IV) Corona-free attachment hardware.
 - (V) Conductor quality.
 - (VI) Handling and packaging of conductor.
 - (VII) Construction techniques.
 - (VIII) Line tension.
- (d) For an application for a certificate of public convenience and necessity for construction or extension of transmission facilities, the applying utility shall describe its actions and techniques relating to prudent avoidance with respect to planning, siting, construction, and operation of the proposed construction or extension. As used in this paragraph, "prudent avoidance" means the striking of a reasonable balance between the potential health effects of exposure to magnetic fields and the cost and impacts of mitigation of such exposure, by taking steps to reduce the exposure at reasonable or modest cost. The steps and techniques may include, without limitation, the following:
- (I) Design alternatives considering the spatial arrangement of phasing of conductors.
 - (II) Routing lines to limit exposures to areas of concentrated population and group facilities such as schools and hospitals.
 - (III) Installing higher structures.

(IV) Widening right of way corridors.

(V) Burying lines.

(e) For an application for a certificate of public convenience and necessity for construction or expansion of generation facilities, including but not limited to pollution controls or fuel conversion upgrades and conversion of existing coal-fired plants to natural gas plants, the applying utility shall provide the following information regarding best value employment metrics:

(I) the availability of training programs, including training through apprenticeship programs registered with the United States Department of Labor, Office of Apprenticeship and Training;

(II) the employment of Colorado workers as compared to importation of out-of-state workers;

(III) long-term career opportunities; and

(IV) industry-standard wages, health care, and pension benefits.

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[indicates omission of unaffected rules]

3205. Construction or Expansion of Generating Capacity.

(a) No utility may commence new construction or an expansion of generation facilities or projects until either the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity or the Commission issues a certificate of public convenience and necessity for the facility or project. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of generation facilities provided that such construction or expansion is contained entirely within the cooperative's certificated area.

(b) The following shall be deemed to occur in the ordinary course of business and shall not require a certificate of public convenience and necessity:

(I) New construction or expansion of existing generation, which will result in an increase in generating capacity of less than ten megawatts.

(II) A generating plant remodel, or installation of any equipment or building space, required for pollution control systems.

- (c) For each new construction or expansion of existing generation that will result in an increase in generating capacity of ten megawatts or more, the electric utility shall submit to the Commission, no later than April 30 of each year, a filing for a determination of which of the utility's proposed new construction or expansions for the next three calendar years, commencing with the year following the filing, are necessary in the ordinary course of business and which require a certificate of public convenience and necessity prior to construction. For each project, the filing shall contain the following:
 - (I) The name, proposed location, and function or purpose of the project.
 - (II) The estimated cost of the project and the manner in which it is expected to be financed.
 - (III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation.
- (d) The Commission will give notice of each filing made pursuant to paragraph (c) of this rule to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (e) The Staff shall review the filing and any comments received and shall make recommendations in accordance with the following schedule:
 - (I) For any new construction or expansion project which is scheduled to begin in the year of the filing or the next calendar year and which will result in an increase in generating capacity of ten megawatts or more, the Staff shall make its recommendations by May 31 of the year in which the filing is made.
 - (II) For any new construction or expansion project which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more, the Staff shall make its recommendations by August 31 of the year in which the filing is made.
- (f) The Commission shall issue its decision in accordance with the following schedule:
 - (I) For any new construction or expansion project which is scheduled to begin in the calendar year of the filing or in the next calendar year and which will result in an increase in generating capacity of ten megawatts or more, the decision designating each generation project that requires a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.
 - (II) For any new construction or expansion project which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more, the decision designating each generation project that requires a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.

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[indicates omission of unaffected rules]