

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18R-0623E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3 REGARDING HOUSE BILL 18-1270 AND THE ENERGY STORAGE PROCUREMENT ACT.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: September 13, 2018
Adopted Date: August 29, 2018

TABLE OF CONTENTS

I. BY THE COMMISSION1
 A. Statement1
 B. Background.....2
 C. Discussion.....3
 D. Conclusion4
II. ORDER.....6
 A. The Commission Orders That:6
 B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING August 29, 2018.....7

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission issues this Notice of Proposed Rulemaking (NOPR) to amend Rule 3600 *et seq.* of the Commission’s Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3 (Electric Rules). The proposed amendment

codifies House Bill 18-1270. The short title of the act is the “Energy Storage Procurement Act” (Act).

2. The Colorado General Assembly found, determined, and declared that energy storage systems provide potential opportunities to: reduce system costs; support diversification of energy resources; and enhance grid safety and reliability.

3. The Act, at §40-2-203(1), C.R.S., requires that on or before February 1, 2019, the Commission establishes, by rule, as part of the planning process, mechanisms for the procurement of energy storage systems by electric utilities.

B. Background

4. On June 1 2018, Governor Hickenlooper signed the Act into law. The Act took effect on August 8, 2018.

5. Currently, all resources necessary to meet system capacity and energy needs are acquired pursuant to Electric Resource Planning Rules 3600 through 3619. As a result, the procurement processes for the acquisition of energy storage systems will be integrated into the Commission’s Electric Resource Planning Rules.

6. The Staff of the Colorado Public Utilities Commission (Staff) developed an early draft or strawman redline proposal of the Electric Rules for the purpose of soliciting input from likely stakeholders.

7. Staff solicited comments from all parties who had provided testimony before the House Transportation & Energy Committee, which included Nicola Power, Public Service Company of Colorado, Invenergy LLC, the Colorado Independent Energy Association, and the City of Boulder. Staff also solicited comments from Black Hills Colorado Electric, Inc., the Colorado Energy Office, the Office of Consumer Counsel, and Western Resource Advocates.

8. Comments were received in response to Staff's solicitation from Public Service Company of Colorado, the Colorado Energy Office, Western Resource Advocates, and Interwest Energy Alliance.

C. Discussion

9. The purpose of this rulemaking is to establish rules pursuant to the Act. The Act at § 40-2-203(2), C.R.S., requires that the Commission use its best efforts to create conditions under which the procurement of energy storage systems will provide systemic benefits including: increased integration of energy into the grid; improved reliability; reduction of the need for increased generation during periods of peak demand; and avoidance, reduction, or deferral of investments.

10. All stakeholder comments provided to Staff were considered. The primary difference in approach offered by stakeholders related to the level of specificity that should be contained in the proposed rules. Currently, the electric resource planning rule requires that utilities provide information and methodologies for the evaluation of electric resources that will be decided in the course of the electric resource plan proceeding. The proposed rules for the procurement of energy storage systems follow this same philosophy, wherein utilities will be required to provide information and analysis proposals based on the goals listed in § 40-2-203(2), C.R.S.

11. The proposed rules require that utilities provide the necessary information in electric resource plans that will allow the Commission, in its consideration thereof, to specifically approve or modify the following: (1) the utility's plans for acquiring energy storage systems through an all-source competitive acquisition process or through an alternative acquisition process; (2) components of the utility's proposed request for proposals (RFP) for

energy storage systems, such as the model contracts and the proposed evaluation criteria; and, (3) the alternate scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of energy storage systems, consistent with Rule 3617(c).

12. The Act at § 40-2-203(3)(b), C.R.S., establishes confidential treatment for information provided to developers of energy storage systems. Commission Rule 3614 already provided for similar treatment for information provided to parties to electric resource plan proceedings. As a result, language was added to this rule to include information provided to developers responding to an RFP. In addition, language was proposed consistent with the Act with regard to the disqualification of developers found to have violated protective provisions related to confidential information. The Act, at the above-cited section, specifically references “customer data and personally identifiable information.” The Commission has previously addressed the protection of such data and information in Commission Rules 3025 through 3029. Thus, those rules are not a part of this rulemaking.

13. Finally, the Act does not specify any size limitations for the procurement of energy storage systems proposals. Considering that subparagraph 3615(a)(III) provides an exemption or exclusion for resources of 30 MW or less, language was proposed requiring that utilities address how smaller energy storage systems may be accommodated in the all-source competitive acquisition process.

D. Conclusion

14. The statutory authority for the rules proposed here is found at §§ 24-4-101 *et seq.*, and 40-2-108, C.R.S.

15. Prior to our issuance of this NOPR, consistent with § 24-4-103(2), C.R.S., representative groups of participants with an interest in the subject matter of this rulemaking

were established, submitted views, and participated informally on the proposal under consideration. These participants are included on the list of persons who receive notification of the NOPR.

16. The proposed rules in legislative (*i.e.*, strikeout/underline) format (Attachment A) and final format (Attachment B) are available through the Commission's Electronic Filings (E-Filings) system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=18R-0623E.

17. The Commission will conduct a hearing *en banc* on the proposed rules and related issues on October 23, 2018.

18. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that comments be filed no later than September 21, 2018, that any pre-filed comments responsive to the initial comments be submitted no later than October 5, 2018, and that any changes be proposed in legislative redline format. The Commission prefers that comments be filed using its E-Filings system at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding. The Commission will consider all submissions, whether oral or written.

19. Interested persons may provide oral comments at the public hearing, unless the Commission deems oral presentations unnecessary.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking, including Attachments A and B, shall be filed with the Colorado Secretary of State for publication in the September 25, 2018, edition of *The Colorado Register*.

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

DATE: October 23, 2018

TIME: 1:30 p.m. to no later than 4:30 p.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado 80202

3. 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 presentations unnecessary. The Commission prefers and encourages interested persons to pre-file comments in this proceeding (18R-0623E) through its E-Filing System at:

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

4. The Commission requests that initial pre-filed comments be submitted no later than September 21, 2018, and that any pre-filed comments responsive to the initial comments be submitted no later than October 5, 2018. The Commission will consider all submissions, whether oral or written.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 29, 2018.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

WENDY M. MOSER

Commissioners