

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.

DECISION AMENDING AND ADOPTING RULES

Mailed Date: December 12, 2018
Adopted Date: November 28, 2018

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B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING November 28, 2018.13

I. BY THE COMMISSION

A. Statement

1. On June 1, 2018, Governor Hickenlooper signed into law House Bill (HB) 18-1270. The short title of the act is the "Energy Storage Procurement Act" (Act). The Act took effect on August 8, 2018.

2. The Act, codified at § 40-2-203(1), C.R.S. 2018, 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.

3. The Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) on September 13, 2018, initiating this proceeding.¹

4. Through the NOPR, the Commission proposed revisions to the Rules Regulating Electric Utilities contained in 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules).

B. Procedural Background

5. The Commission made the proposed rules, provided with Decision No. C18-0772 in legislative (*i.e.*, ~~strikeout~~ and underline) format and in final format, available to the public through the Commission's Electronic Filings (E-Filings) system.

6. The Commission scheduled a hearing for October 23, 2018.²

¹ See Decision No. C18-0772 (mailed September 13, 2018).

² *Id.*, Ordering ¶¶ II.A.2 and 3, p. 6.

7. The Commission invited interested participants to file initial comments no later than September 21, 2018, and to file responsive comments no later than October 5, 2018.³

8. Initial Comments were filed by: Interwest Energy Alliance (Interwest); Representative Chris Hansen, Senator Jack Tate and Representative Jon Becker; Colorado Solar Energy Industries Association and Solar Energy Industries Association (COSEIA & SEIA); Western Resource Advocates (WRA); Colorado Independent Energy Association (CIEA); Energy Storage Association (ESA); and Public Service Company of Colorado (Public Service).

9. Reply comments were filed by WRA, COSEIA & SEIA, and Public Service.

10. Black Hills Colorado Electric, Inc. (Black Hills) filed post hearing comments.

11. The public comment hearing was held by the Commission *en banc* on October 23, 2018 where the following provided oral testimony and responded to Commissioner questions: Cindy Schonhaut with the Office of Consumer Counsel; Chris Irby and Ken Scholl with Public Service; Jake Schlesinger on behalf of COSEIA & SEIA; Erin Overturf with WRA; Mark Detsky on behalf of CIEA; and Lisa Hickey on behalf of Interwest.

II. INTENT OF THE ACT

A. Commenter Positions

12. COSEIA & SEIA argued that the Act intended to effectuate consideration of energy storage systems beyond the electric resource plan (ERP) processes.⁴ COSEIA & SEIA

³ *Id.*, Ordering ¶ II.A.4, p. 6.

⁴ Hearing transcript, p. 44, l. 16 through p. 45, l. 7.

recommended that the Commission require consideration for energy storage systems in utilities' generation, transmission, and distribution facilities planning processes.⁵

13. WRA argued that the bill contemplated “systemic benefits” which are reasonably interpreted to suggest considering energy storage systems for supply-side utility-scale resources such as those considered in the ERP process, as well as considering energy storage systems in transmission and distribution planning processes.⁶

14. Representative Chris Hansen, Senator Jack Tate, and Representative Jon Becker filed joint comments encouraging the Commission to require utilities to consider storage in all of the utility's planning processes, including generation, transmission, and distribution.⁷

15. Public Service and Black Hills argued that the intent of the Act is to provide consideration for energy storage systems only in the Commission's ERP.^{8,9}

B. Discussion

16. The Commission finds that the language of the Act mandates consideration for energy storage systems not only in the ERP process, but in other planning processes as well. As some of the commenting parties recognized, the Act affects planning processes for acquisition of supply-side utility-scale resources, transmission facilities, and distribution facilities.

⁵ Initial Comments of the COSEIA & SEIA filed September 21, 2018, pp. 2, 9.

⁶ Hearing transcript, p. 70, l. 7 through p. 71, l. 9.

⁷ Email from Representative Chris Hansen, Senator Jack Tate and Representative Jon Becker to Commissioners regarding HB 18-1270, September 20, 2018.

⁸ Hearing transcript, p. 21, ll. 4-7.

⁹ Post Hearing Comments of Black Hills filed October 26, 2018, p. 2.

III. GENERATION, TRANSMISSION, AND DISTRIBUTION PLANNING RULES

A. Commenter Positions

17. WRA proposed additions to Rule 3200, which pertains to Construction, Installation, Maintenance, and Operation of plant, equipment, and facilities of an electric utility. WRA also proposed additions to Rule 3627 regarding transmission planning. The proposed additions would require that utilities evaluate energy storage as an alternative to other distribution or transmission investments.¹⁰

18. COSEIA & SEIA argued that “to properly implement HB-1270, the Commission should revise Rule 3102 concerning CPCN applications for facilities, Rules 3205 and 3206 concerning construction and expansion of generation and transmission facilities and Rules 3625 through 3627 concerning transmission planning.”¹¹

19. The ESA recommended that “additional specificity on how to evaluate energy storage as an alternative resource is needed throughout the planning process, including the transmission resources.”¹²

20. Interwest stated that “it is appropriate to require consideration in the distribution planning rule process in the form recommended by WRA. Further, it is appropriate to consider the extent to which energy storage was considered in the planning process and weighing of alternatives when a CPCN is presented to the Commission for adjudication.”¹³

21. Several commenters have recommended that the Commission require the utility to provide current costs for specific ancillary services such as frequency response, spinning reserve,

¹⁰ Initial Comments of Western Resource Advocates filed September 21, 2018, pp. 6-7.

¹¹ Initial Comments of COSEIA & SEIA filed September 21, 2018 p. 7.

¹² Comments of the Energy Storage Association filed September 21, 2018, p. 7.

¹³ Responsive comments of Interwest filed October 5, 2018, p. 5.

and black start capability and that the utility be required to seek bids for the provision of such services from energy storage systems.

22. Public Service responded stating that it does not advise embedding in Commission rules specific value streams related to ancillary or grid services that are to be applied only to a single resource type such as storage. Many, if not all, of the potential value streams that some entities want to claim solely for storage resources can be and are supplied by a variety of generation, storage, and demand response resources.

23. The remaining amendments offered by commenters were uncontested, minor and clarifying in nature, and were considered and incorporated where deemed appropriate.

B. Discussion

24. The Commission does not currently treat all electric facilities alike from the perspective of planning and procurement. In the case of electric distribution, the Commission in Rule 3207(a) established that the expansion of distribution facilities is deemed to be in the ordinary course of business. As a result, it has not established requirements for either planning or procurement activities. In the case of electric supply-side resources, the Commission has implemented Rules 3600 through 3619 for system resources, Rule 3656 for eligible energy resources, and Rule 3665 for community solar garden resources; together, these rules provide requirements for both planning and procurement processes. In the case of electric transmission, the Commission has implemented Rules 3625 through 3627 which provide reporting requirements for electric transmission planning, but no procurement requirements for transmission facilities.

25. Rule 3102, Certificate of Public Convenience and Necessity for Facilities, establishes the requirements for a utility to obtain a Certificate of Public Convenience and

Necessity (CPCN) to construct and operate a facility or extension of a facility which is not in the ordinary course of business. Rule 3102(b)(VIII) requires “[a]s applicable, information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives.” This rule contains elements of the planning process in that it provides requirements to obtain a CPCN for a facility that the utility will construct or operate.

26. Rule 3200(a) requires that “plant, equipment, and facilities of a utility shall be constructed, installed, inspected, maintained, and operated in accordance with accepted engineering practice in the electric industry to assure continuity of service, uniformity in the quality of service, and the safety of persons and property.” Rule 3200(b) establishes that “the minimum standard of accepted engineering practice is the edition of the National Electrical Safety Code [NESC] in effect at the time of commencing construction or installation of the electric plant.”¹⁴

27. In sum, Rule 3200 specifies the minimum safety standards that apply to the construction, installation, maintenance, and operation of electric utility plant, equipment, and facilities. The rule is not directed toward regulation of planning or procurement activities. As a result, it is not appropriate to amend Rule 3200 to include requirements for planning or procurement of utility plant, equipment, or facilities.

28. Rules 3205 through 3207 specify the basic requirements for the construction or expansion of generating capacity, transmission facilities, and distribution facilities. The purpose of these rules is to inform the Commission of the utility's proposed new construction or

¹⁴ The National Electric Safety Code (NESC) states that “[t]he purpose of the NESC is the practical safeguarding of persons, utility facilities, and affected property during the installation, operation, and maintenance of electric supply and communication facilities, under specified conditions.” See INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS, NATIONAL ELECTRICAL SAFETY CODE (2012 ed.) (endorsed by the American National Standards Institute).

expansion of generation and transmission for the next three calendar years and to provide sufficient information to determine whether a CPCN is required. As such, these rules address elements of the planning process.

29. Rules 3600 through 3619 clearly establish requirements for both planning and procurement or acquisition of supply-side system resources for meeting utility needs.

30. Rules 3625 through 3627 establish requirements for a coordinated electric planning process that is to be conducted on a comprehensive, transparent, statewide basis.¹⁵ Generally, Rules 3625 through 3627 are intended to provide transparency into the planning activities engaged in by the Colorado Coordinated Planning Group (CCPG) and an opportunity for the Commission to determine early when CPCNs are required for utilities regulated by the Commission.¹⁶ There is currently no language in these rules which refer to procurement or acquisition processes and it is inappropriate to locate new storage procurement and acquisition provisions within these rules since transmission owners beyond those regulated by the Commission are involved in the planning processes through CCPG.

31. Consistent with the discussion above, the Commission finds that Rules 3206 and 3207 are the appropriate rules for incorporation of requirements for utility consideration of energy storage systems in utility planning processes for electric distribution and transmission facilities.

¹⁵ 4 CCR 723-3-3626.

¹⁶ CCPG is a subregional planning group within the WestConnect. WestConnect is a regional planning group which serves to coordinate the planning activities of electric transmission in Colorado, New Mexico, Arizona, Nevada, and parts of Wyoming, Nebraska, Texas, and California.

32. To that end, a new rule, 3206(d)(I)(D), will be promulgated requiring that utilities consider energy storage systems alongside other alternatives in the transmission planning process.

33. Similarly, an additional requirement will be added to Rule 3207(a) requiring that where appropriate, utilities consider energy storage systems in their planning processes as an alternative to expansion of distribution facilities. To increase transparency and allow the Commission to better determine whether this mandate is properly implemented, each utility shall file with the Commission a report detailing how it has complied with Rule 3207 paragraph (b) for the preceding calendar year.

34. The title of Rule 3207 is also modified to correct an apparently errant inconsistency in terminology between the Rule and § 40-5-101, C.R.S.

35. Considering the comments filed in this proceeding and the rules governing the ERP process as a whole, the Commission finds that specific ancillary service costs and benefits are more appropriately addressed in Phase I of the ERP proceeding. As a result, the Commission will not adopt language related to specific ancillary services.

36. The changes to Rules 3600 through 3619 are promulgated generally as provided in Decision No. C18-0772 except where certain minor amendments recommended by commenters were adopted to provide additional clarity.

IV. CONFIDENTIAL INFORMATION PROVIDED TO THIRD PARTIES**A. Background**

37. The Act at § 40-2-203(3)(b), C.R.S. 2018, requires that the Commission adopt rules:

Requiring electric utilities to provide to the commission, and allowing electric utilities to provide to third parties as approved by the commission, appropriate data and analysis of potential storage acquisitions in their planning processes, including potential interconnection points. The commission shall treat information provided to the commission or to approved third parties under this subsection (3)(b) as confidential and ensure that the commission and any approved third party manages the information in accordance with all commission rules and federal and state laws concerning customer data and personally identifiable information.

B. Commenter Positions

38. Public Service in its initial comments argued that “a reasonable interpretation of Commission approved third parties in this context specifically means intervenors in the Company’s Electric Resource Plan, not simply any and all developers who submit a bid (legitimate or otherwise) in response to an RFP [request for proposal] in Phase II of an ERP.”¹⁷ COSEIA & SIEA argued that restricting access to information about ideal energy storage use cases and interconnection points only to bidders that intervene in an ERP makes little sense from a policy perspective.

39. COSEIA & SEIA in reply comments disagreed with Public Service’s interpretation and presented a proposal based on an understanding that the Act’s language regarding third parties that receive confidential information was directed toward developers or bidders responding to an RFP. COSEIA & SEIA proposed that utilities be required to make a

¹⁷ Public Service Initial Comments filed September 21, 2018, p. 6.

filing addressing the treatment of confidential information to be provided to bidders 60 days in advance of the issuance of an RFP.

C. Discussion

40. The Commission finds that as used in the Act, “third parties as approved by the [C]ommission” includes developers or bidders responding to an RFP, even if those parties have not intervened. If the Colorado Legislature had intended to limit these provisions to intervening third parties it could have easily done so.

41. The Commission adopts rules similar to those proposed by COSEIA & SEIA. But, instead of requiring a separate petition process subsequent to the Phase I decision, Rule 3614 will be amended to require utilities to include proposed treatment of confidential information that may be provided to bidders in its ERP application. This will allow the Commission the opportunity to decide on the treatment of such information earlier—in the Phase I decision—and avoids the additional time and expense of a separate process.

V. INELIGIBILITY TO BID IN SUBSEQUENT RFP

A. Background

42. The Act at § 40-2-203(3)(b), C.R.S. 2018, also defines a remedy that the Commission can impose when a third party has been found in violation of confidentiality requirements:

If the commission finds that a third party has failed to comply with any applicable rules, laws, or conditions of approval under this subsection (3)(b), the commission may deem that party ineligible to bid or develop storage systems in the subsequent electric resource plan.

B. Commenter Positions

43. CIEA argued that in order to provide due process of law, the rules need to provide for notice of claims that a developer or bidder violated the confidentiality requirements, and that the developer or bidder must be granted an opportunity to respond to such a claim.

44. CIEA also pointed out in its comments that the remedy the Act provides for a developer or bidder found to have violated the confidentiality provisions is limited to bidding ineligibility in the next or subsequent ERP, not in all subsequent ERPs.

C. Discussion

45. The Commission declines to add to the rule the language proposed by CIEA because it is unnecessary; the Commission is already obligated to provide due process in accordance with the law.

46. Instead, the Commission finds that the specific language in the Act at § 40-2-203(3)(b), C.R.S. 2018, adequately describes the provided remedy. Therefore, the Act's relevant language will be incorporated, with minor changes, into Rule 3614(e).

VI. ORDER**A. The Commission Orders That:**

1. Rule 4 *Code of Colorado Regulations* 723-3 contained in Attachment A to this Decision and shown in final format in Attachment B, is adopted consistent with the discussion above, and is available through the Commission's Electronic Filing (E-Filings) system at:

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

2. Subject to a filing of an application for rehearing, reargument, or reconsideration, the opinion of the Attorney General of the State of Colorado shall be obtained regarding constitutionality and legality of the rules as finally adopted. A copy of the final, adopted rules

shall be filed with the Office of the Secretary of State. The rules adopted by this Decision shall be effective 20 days after publication in *The Colorado Register* by the Office of the Secretary of State.

3. The 20-day time period provided by § 40-6-114, C.R.S. 2018, to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 28, 2018.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

WENDY M. MOSER

Commissioners

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, 40-3-103, 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, 40-7-113.5, 40-7-116.5, 40-8.7-105(5), and 40-9.5-107(5), C.R.S.

GENERAL PROVISIONS

3001. Definitions.

The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise. In addition to the definitions here, the definitions found in the Public Utilities Law and Part 1 apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply. In the event of a conflict between these definitions and a definition in Part 1, these definitions shall apply.

- (a) "Affiliate" of a utility means a subsidiary of a utility, a parent corporation of a public utility, a joint venture organized as a separate corporation or partnership to the extent of the individual utility's involvement with the joint venture, a subsidiary of a parent corporation of a utility or where the utility or the parent corporation has a controlling interest over an entity.

- (b) "Aggregated data" means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) and/or the compilation of customer data of one or more customers from which all unique identifiers and personal information has been removed.
- (c) "Applicant for service" means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (d) "Basis point" means one-hundredth of a percentage point (100 basis points = one percent).
- (e) "Benefit of service" means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.
- (f) "Commission" means the Colorado Public Utilities Commission.
- (g) "Contracted agent" means any person that has contracted with a utility in compliance with rule 3030 to assist in the provision of regulated utility services (e.g., an affiliate or vendor).
- (h) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- (i) "Customer data" means customer-specific data or information, excluding personal information as defined in paragraph 1004(x), that is:
 - (I) collected from the electric meter by the utility and stored in its data systems (e.g., kWh, kW, voltage, VARs and power factor);
 - (II) combined with customer-specific energy usage information on bills issued to the customer for regulated utility service when not publicly or lawfully available to the general public; or
 - (III) about the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs.
- (j) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs including substation transformers that transform electricity to a distribution voltage and also includes other equipment within a transforming substation which is not integral to the circuitry of the utility's transmission system.
- (k) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.

- (l) “Energy storage system” means a commercially available technology that is capable of retaining energy, storing the energy for a period of time, and delivering the energy as electricity after storage by chemical, thermal, mechanical, or other means.
- (~~m~~) “Financial security” includes any stock, bond, note, or other evidence of indebtedness.
- (n) “Generation facility” means a power plant that converts a primary energy resource into electricity. Primary energy resources include, but are not limited to: nuclear resources, coal, natural gas, hydro, wind, solar, biomass, and geothermal.
- (~~no~~) “Heavy load” means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.
- (~~op~~) “Informal complaint” means an informal complaint as defined and discussed in the Commission’s Rules Regulating Practice and Procedure.
- (~~oq~~) “Light load” means approximately five to ten percent of the nameplate-rated capacity of a meter.
- (~~pr~~) “Load” means the power consumed by an electric utility customer over time (measured in terms of either demand or energy or both).
- (~~qs~~) “Local government” means any Colorado county, municipality, city and county, home rule city or town, home rule city and county, or city or town operating under a territorial charter.
- (~~rt~~) “Local office” means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, “local office” means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (~~su~~) “Main service terminal” means the point at which the utility’s metering connections terminate.
- (~~tv~~) “Major event” means an event as defined in and consistent with IEEE Standard Number 1366-2003, Guide for Electric Power Distribution Reliability Indices.
- (~~uw~~) “MVA” means mega-volt amperes and is the vector sum of the real power and the reactive power.
- (~~vx~~) “Non-standard customer data” means all customer data that are not standard customer data.
- (~~wy~~) “Output” means the energy and power produced by a generation system.
- (~~xz~~) “Past due” means the point at which a utility can affect a customer’s account for regulated service due to non-payment of charges for regulated service.
- (~~yaa~~) “Principal place of business” means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility’s operations in Colorado are located.

- (zbb) "Property owner" means the legal owner of government record for a parcel of real property within the service territory of a utility. A utility may rely upon the records of a county clerk for the county within which a parcel of property is located to determine ownership of government record.
- (aacc) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (bbdd) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission or contained in a tariff of the utility.
- (ee) "RFP" means request for proposals.
- (eeff) "Rotating standard" means a portable meter used for testing service meters.
- (edgg) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- (eehh) "Service connection" is the location on the customer's premises/facilities at which a point of delivery of power between the utility and the customer is established. For example, in the case of a typical residential customer served from overhead secondary supply, this is the location at which the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.
- (ffii) "Standard customer data" means customer data maintained by a utility in its systems in the ordinary course of business.
- (ggjj) "Third-party" means a person who is not the customer, an agent of the customer who has been designated by the customer with the utility and is acting of the customer's behalf, a regulated utility serving the customer, or a contracted agent, of the utility.
- (hakk) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility's transmission system.
- (hiii) "Unique identifier" means a customer's name, mailing address, telephone number, or email address that is displayed on a bill.
- (jjmm) "Unregulated charges" means charges that are billed by a utility to a customer and that are not regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.
- (kknn) "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.

(Hoo) "Utility service" or "service" means a service offering of a utility, which service offering is regulated by the Commission.

(mmpp) "Whole building data" means the sum of the monthly electric use for either all meters at a building on a parcel or real property or all buildings on a parcel of real property.

* * * *

[indicates omission of unaffected rules]

3206. Construction or Extension of Transmission Facilities.

(d) Annual report for planned transmission facilities. No later than April 30 of each year, each electric utility and each cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., shall file with the Commission its proposed new construction or extension of transmission facilities for the next three calendar years, commencing with the year following the filing. The filing shall contain a reference to all such proposed new construction or extensions, regardless of whether the utility or cooperative electric association has referenced such new construction or extensions in prior annual filings. Amended filings or filings of an emergency nature are permitted at any time. By submitting the proper information, the report may request a decision that projects are in the ordinary course of business and do not require a CPCN.

(l) The filing shall contain the following information for each project:

- (A) the name, proposed location, and function or purpose of the project;
- (B) if the project is a substation or related facilities: the voltage level and the MVA rating of transformers and shunt capacitors;
- (C) if the project is a transmission line: the voltage, the length in miles, the continuous MVA rating, and the substation termination points;

(D) the alternatives considered by the utility in its transmission planning process including consideration for energy storage systems;

(DE) the estimated cost of the project;

(EE) the projected date for the start of construction, the estimated date of completion, and the estimated in-service date; and

(FG) for new construction or extensions that were included in prior annual filings, an update of the status of, and any changes to, such new construction or extensions. Once a project is reported as completed or cancelled, its status can be removed in subsequent filings.

3207. Construction or ~~Expansion~~ Extension of Distribution Facilities.

- (a) ~~Expansion~~ Extension of distribution facilities, as authorized in § 40-5-101, C.R.S., is deemed to occur in the ordinary course of business and shall not require a certificate of public convenience and necessity.
- (b) Notwithstanding paragraph (a), the utility shall include consideration of energy storage systems in its planning processes as an alternative to construction or extension of distribution facilities where appropriate.
- (c) No later than April 30 of each year, each utility shall file with the Commission a report detailing how it has complied with paragraph (b) for the preceding calendar year.
- (bd) The utility shall install and maintain service connections from distribution extensions, which is any construction of distribution facilities, including primary and secondary distribution lines, transformers, service laterals, and appurtenant facilities (except meters and meter installation facilities) that are necessary to supply service to one or more additional customers, consistent with conditions contained in the utility's tariff.
- (ee) When a customer or potential customer requests a cost estimate of a distribution line extension, the utility shall provide a photovoltaic system cost comparison, if the following conditions are met:
 - (I) the customer or potential customer provides the utility with load data (estimated monthly kWh usage) as requested by the utility to conduct the comparison;
 - (II) the customer or potential customer's peak demand is estimated to be less than 25 KW.
- (ef) In performing a photovoltaic system cost comparison analysis, the utility will consider line extension distance, overhead/underground construction, terrain, other variable construction costs, and the probability of additions to the line extension within the life of the open extension period.
- (eg) If the customer or potential customer has a ratio of estimated monthly kWh usage divided by line extension mileage that is less than or equal to 1,000 (i.e., kWh/Mileage is $\leq 1,000$), the utility shall provide the photovoltaic system cost comparison at no cost to the customer or potential customer. If the ratio is greater than 1,000, the customer or potential customer shall bear the cost of the comparison, if the cost comparison is requested by the customer or potential customer.

* * * *

[indicates omission of unaffected rules]

ELECTRIC RESOURCE PLANNING

3600. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (i.e., rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3601. Overview and Purpose.

The purpose of these rules is to establish a process to determine the need for additional electric resources by electric utilities subject to the Commission's jurisdiction and to develop cost-effective resource portfolios to meet such need reliably. It is the policy of the state of Colorado that a primary goal of electric utility resource planning is to minimize the net present value of revenue requirements. It is also the policy of the state of Colorado that the Commission gives the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies.

3602. Definitions.

The following definitions apply to rules 3600 through 3619. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Availability factor" means the ratio of the time a [generating-generation](#) facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.
- (b) "Annual capacity factor" means the ratio of the net energy produced by a [generating-generation](#) facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year round.
- (c) "Cost-effective resource plan" means a designated combination of new resources that the Commission determines can be acquired at a reasonable cost and rate impact.
- (d) "Demand-side resources" means energy efficiency, energy conservation, load management, and demand response or any combination of these measures.
- (e) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.
- (f) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, resulting in a reduction in end-use services.
- (g) "Energy efficiency" means the decrease in electricity requirements of specific customers during any selected period with end-use services of such customers held constant.
- (h) "Heat rate" means the ratio of energy inputs used by a [generating-generation](#) facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kWh.

- (i) "Modeling error or omission" means any incorrect, incomplete, or improper input to computer-based modeling performed by the utility, for evaluating a proposed resource, of a magnitude that alters the model results.
- (j) "Net present value of revenue requirements" means the current worth of the total expected future revenue requirements associated with a particular resource portfolio, expressed in dollars in the year the plan is filed as discounted by the appropriate discount rate.
- (k) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of revenue requirements for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.
- (l) "Potential resource" means ~~an electric~~ generation facility or energy storage system bid into a competitive acquisition process in accordance with an approved resource plan.
- (m) "Renewable energy resources" means all renewable energy resources as defined in the Commission's RES Rules.
- (n) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific resources to meet projected electric system demand and energy requirements. The resource acquisition period begins from the date the utility files its plan with the Commission.
- (o) "Resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.
- (p) "Resources" means supply-side resources, energy storage systems and demand-side resources used to meet electric system requirements.
- (q) "Section 123 resources" means new energy technology or demonstration projects, including new clean energy or energy-efficient technologies under § 40-2-123(1)(a), C.R.S. and § 40-2-123(1)(c), C.R.S., and Integrated Gasification Combined Cycle projects under § 40-2-123(2), C.R.S.
- (r) "Supply-side resources" means resources that provide electrical energy or capacity to the utility. Supply-side resources include utility owned generating-generation facilities and energy or capacity purchased from other utilities and non-utilities.
- (s) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3603. Resource Plan Filing Requirements.

- (a) Jurisdictional electric utilities shall file a resource plan pursuant to these rules every four years beginning October 31, 2015. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than

the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing.

- (b) Each jurisdictional electric utility shall contemporaneously file with its resource plan submitted under paragraph 3603(a), a motion or motions seeking extraordinary protection of information listed as highly confidential pursuant to paragraph 3604(j) and consistent with rule 1101 of the Commission's Rules of Practice and Procedure. The utility shall specifically address appropriate confidentiality protections and nondisclosure requirements for modeling inputs and assumptions that may be used to evaluate a potential resource and that reasonably relate to that facility. The utility's motion or motions shall specify that response time shall run concurrently with the intervention deadline established in the resource plan proceeding. Finally, during the course of the resource plan proceeding, a utility may file additional motions seeking extraordinary protection of information for good cause shown.

3604. Contents of the Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility shall provide work-papers to support the information contained in the plan. The plan shall include the following.

- (a) A statement of the utility-specified resource acquisition period and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire resource plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of the needs of the utility system.
- (b) An annual electric demand and energy forecast developed pursuant to rule 3606.
- (c) An evaluation of existing resources developed pursuant to rule 3607.
- (d) An evaluation of transmission resources pursuant to rule 3608.
- (e) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule 3609.
- (f) An assessment of the need for additional resources developed pursuant to rule 3610.
- (g) The utility's plan for acquiring these resources pursuant to rule 3611, including a description of the projected emissions, in terms of pounds per MWH and short-tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for any resources proposed to be owned by the utility and for any new generic resources included in the utility's modeling for its resource plan.
- (h) The annual water consumption for each of the utility's existing generation resources, and the water intensity (in gallons per MWH) of the existing generating system as a whole, as well as the projected water consumption for any resources proposed to be owned by the utility and for any new generic resources included in the utility's modeling for its resource plan.

- (i) The proposed RFP(s) the utility intends to use to solicit bids for energy and capacity resources to be acquired through a competitive acquisition process, including model contracts, pursuant to rule 3616.
- (j) A list of the information related to the resource plan proceeding that the utility claims is confidential and a list of the information related to the resource plan proceeding that the utility claims is highly confidential. The utility shall also list the information that it will provide to owners or developers of a potential resource [in RFP documents or](#) under paragraphs 3613(a) and (b). The utility shall further explicitly list the protections it proposes for bid prices, other bid details, information concerning a new resource that the utility proposes to build and own as a rate base investment, other modeling inputs and assumptions, and the results of bid evaluation and selection. The protections sought by the utility for these items shall be specified in the motion(s) submitted under paragraph 3603(b). For good cause shown the utility may seek to protect additional information as confidential or highly confidential by filing the appropriate motion under rule 1101 of the Commission's Rules of Practice and Procedure in a timely manner.
- (k) Descriptions of at least three alternate plans that can be used to represent the costs and benefits from increasing amounts of renewable energy resources, demand-side resources, [energy storage systems](#), or Section 123 resources as defined in paragraph 3602(q) potentially included in a cost-effective resource plan. One of the alternate plans shall represent a baseline case that describes the costs and benefits of the new utility resources required to meet the utility's needs during the planning period that minimize the net present value of revenue requirements and that complies with the RES, 4 CCR 723-3-3650, et seq., as well as with the demand-side resource requirements under § 40-3.2-104, C.R.S. The other alternate plans shall represent alternative combinations of resources that meet the same resource needs as the baseline case but that include proportionately more renewable energy resources, demand-side resources, [energy storage systems](#), or Section 123 resources. The utility shall propose a range of possible future scenarios and input sensitivities for the purpose of testing the robustness of the alternate plans under various parameters.
- (l) An assessment of the costs and benefits of the integration of intermittent renewable energy resources on the utility's system, including peer-reviewed studies, consistent with the amounts of renewable energy resources the utility proposes to acquire.
- [\(m\) Modeling assumptions and analytical methodology proposed to assess the costs and benefits of energy storage systems including, but not limited to: integration of intermittent resources; improvement of reliability; reduction in the need for increased generation facilities to meet periods of peak demand; and avoidance, reduction, or deferral of investments.](#)
- [\(n\) The utility shall propose how energy storage systems smaller than 30 MW in size may be accommodated in the all-source competitive acquisition process.](#)

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, 3609(a) and 3610. Each cooperative generation and transmission association shall also file annual reports pursuant to subparagraphs (a)(I) through (a)(VI) of rule 3618.

3606. Electric Energy and Demand Forecasts.

- (a) Forecast requirements. The utility shall prepare the following energy and demand forecasts for each year within the planning period.
 - (I) Annual sales of energy and coincident summer and winter peak demand in total and disaggregated among Commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states.
 - (II) Annual sales of energy and coincident summer and winter peak demand on a system wide basis for each major customer class.
 - (III) Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand.
 - (IV) Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand.
 - (V) Annual system losses and the allocation of such losses to the transmission and distribution components of the system. Coincident summer and winter peak system losses and the allocation of such losses to the transmission and distribution components of the systems.
 - (VI) Typical day load patterns on a system-wide basis for each major customer class. This information shall be provided for peak-day, average-day, and representative off-peak days for each calendar month.
- (b) Range of forecasts. The utility shall develop and justify a range of forecasts of coincident summer and winter peak demand and energy sales that its system may reasonably be required to serve during the planning period. The range shall include base case, high, and low forecast scenarios of coincident summer and winter peak demand and energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.
- (c) Required detail.
 - (I) In preparing forecasts, the utility shall develop forecasts of energy sales and coincident summer and winter peak demand for each major customer class. The utility shall use end-use, econometric or other supportable methodology as the basis for these forecasts.

If the utility determines not to use end-use analysis, it shall explain the reason for its determination as well as the rationale for its chosen alternative methodology.

- (II) The utility shall maintain, as confidential, information reflecting historical and forecasted demand and energy use for individual customers in those cases when an individual customer is responsible for the majority of the demand and energy used by a particular rate class. However, when necessary in the resource plan proceedings, such information may be disclosed to parties who intervene in accordance with the terms of non-disclosure agreements approved by the Commission and executed by the parties seeking disclosure.
- (d) Historical data. The utility shall compare the annual forecast of coincident summer and winter peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the five years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecasts in its most recently filed resource plan to the annual forecasts in the current resource plan.
- (e) Description and justification. The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this rule, as well as the forecasts themselves.
- (f) Format and graphical presentation of data. The utility shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting parties in such electronic formats as the Commission shall reasonably require.

3607. Evaluation of Existing Resources.

- (a) Existing ~~generation~~-resource assessment. The utility shall describe its existing resources, all utility-owned ~~generating-generation~~ facilities and energy storage systems for which the utility has obtained a CPCN from the Commission pursuant to § 40-5-101, C.R.S., at the time the plan is filed, and existing or future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description shall include, when applicable, the following.
 - (I) Name(s) and location(s) of utility-owned generation facilities and energy storage systems.
 - (II) Rated capacity and net dependable capacity of utility-owned generation facilities and energy storage systems.
 - (III) Fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities and availability factors for utility-owned energy storage systems over the resource acquisition period.
 - (IV) Estimated in-service dates for utility-owned generation facilities and energy storage systems for which a CPCN has been granted but which are not in service at the time the plan under consideration is filed.

- (V) Estimated remaining useful lives of existing-utility-owned generation facilities and energy storage systems without significant new investment or maintenance expense.
 - (VI) The amount of capacity, ~~and~~ energy from generation facilities, energy storage systems, and demand-side resources purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy from generation facilities or energy storage systems purchased pursuant to such contracts.
 - (VII) The amount of capacity and energy from generation facilities and energy storage systems provided pursuant to wheeling or coordination agreements, the duration of such wheeling or coordination agreements, and a description of any contract provisions that allow for modification of the amount of capacity and energy from generation facilities or energy storage systems provided pursuant to such wheeling or coordination agreements.
 - ~~(VIII)~~ The performance characteristics of utility-owned energy storage systems including but not limited to discharge rates and durations, charging rates, response time; and cycling losses and limitations.
 - ~~(IX)~~ The physical and performance characteristics of energy storage systems purchased from utilities and non-utilities including but not limited to: storage technology; discharge rates and durations; charging rates; response time; and cycling losses and limitations.
 - ~~(X)~~ The projected emissions, in terms of pounds per MWH and short-tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for the resources identified under this paragraph 3607(a).
 - ~~(XI)~~ The expected demand-side resources during the resource planning period from existing measures installed through utility-administered programs; and, from measures expected to be installed in the future through utility-administered programs in accordance with a Commission-approved plan.
- (b) Utilities required to comply with these rules shall coordinate their plan filings such that the amount of electricity purchases and sales between utilities during the planning period is reflected uniformly in their respective plans. Disputes regarding the amount, timing, price, or other terms and conditions of such purchases and sales shall be fully explained in each utility's plan. If a utility files an interim plan as specified in rule 3603, the utility is not required to coordinate that filing with other utilities.

3608. Transmission Resources.

- (a) The utility shall report its existing transmission capabilities, and future needs during the planning period, for facilities of 115 kilovolts and above, including associated substations and terminal facilities. The utility shall generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources.

- (b) With respect to future needs, the utility shall submit a description of all transmission lines and facilities appearing in its most recent report filed with the Commission pursuant to § 40-2-126, C.R.S., that, as identified in that report, could reasonably be placed into service during the resource acquisition period.
- (c) For each transmission line or facility identified in paragraph (b), the utility shall include the following information detailing assumptions to be used for resource planning and bid evaluation purposes:
 - (I) length and location;
 - (II) estimated in-service date;
 - (III) injection capacity and locations for generation facilities;
 - (IV) injection capacity and locations for energy storage systems;
 - (~~V~~) estimated costs;
 - (~~VI~~) terminal points; and
 - (~~VII~~) voltage and megawatt rating.
- (d) In order to equitably compare possible resource alternatives, the utility shall consider the transmission costs required by, or imposed on the system by, and the transmission benefits provided by a particular resource as part of the bid evaluation criteria.
- (e) The resource plan shall describe and shall estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process.

3609. Planning Reserve Margins and Contingency Plans.

- (a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices).
- (b) The utility shall develop and justify planning reserve margins for the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: the development of generation; losses of generation capacity purchase of power; losses of transmission capability; risks due to known or reasonably expected changes in environmental regulatory requirements; and, other risks. The utility shall develop planning reserve margins for its system over the planning period beyond the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.

- (c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its proposed contingency plans for the acquisition of additional resources if actual circumstances deviate from the most likely estimate of future resource needs developed pursuant to rule 3610; or, replacement resources in the event that resources are not developed in accordance with a Commission-approved plan under rule 3617. The utility will identify the estimated costs it will incur in developing the contingency plan for addressing the acquisition of these resources (e.g., purchasing equipment options, establishing sites, engineering). The Commission will consider approval of contingency plans only after the utility receives bids, as described in subparagraph 3618(b)(II). The provisions of paragraph 3617(d) shall not apply to the contingency plans unless explicitly ordered by the Commission.

3610. Assessment of Need for Additional Resources.

- (a) By comparing the electric energy and demand forecasts developed pursuant to rule 3606 with the existing level of resources developed pursuant to rule 3607, and planning reserve margins developed pursuant to rule 3609, the utility shall assess the need to acquire additional resources during the resource acquisition period.
- (b) In assessing its need to acquire additional resources, the utility shall also:
- (I) Determine the additional eligible energy resources, if any, the utility will need to acquire to comply with the Commission's RES rules.
 - (II) Take into account the demand-side resources it must acquire to meet the energy savings and peak demand reduction goals established under § 40-3.2-104, C.R.S. To that end, the Commission shall permit the utility to implement cost-effective demand-side resources to reduce the need for additional resources that would otherwise be met through a competitive acquisition process pursuant to rule 3611.
 - (III) [Consider the benefits energy storage systems may provide to increase integration of intermittent resources, improve reliability; reduce the need for increased generation facilities to meet periods of peak demand; and avoid, reduce, or defer investments.](#)

- (c) The Commission may give consideration of the likelihood of new environmental regulations and the risk of higher future costs associated with the emission of greenhouse gases such as carbon dioxide when it considers utility proposals to acquire additional resources during the resource acquisition period.

3611. Utility Plan for Meeting the Resource Need.

- (a) It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. The competitive bid process should afford all resources an opportunity to bid, and all new utility resources will be compared in order to determine a cost-effective resource plan (i.e., an all-source solicitation).

- (b) Notwithstanding the Commission's preference for all-source bidding for the acquisition of all new utility resources under these rules, the utility may propose in its filing under rule 3603, an alternative plan for acquiring the resources to meet the need identified in rule 3610. The utility shall specify the portion of the resource need that it intends to meet through an all-source competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.
- (c) If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire and the reason the specific resource(s) should not be acquired through an all-source competitive acquisition process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition.
- (d) Although the utility may propose a method for acquiring new utility resources other than all-source competitive bidding, as a prerequisite, the utility shall nonetheless include in its plan filed under rule 3603 the necessary bid policies, RFPs, and model contracts [for common supply-side resources and energy storage systems](#) necessary to satisfy the resource need identified under rule 3610 exclusively through all-source competitive bidding.
- (e) In the event that the utility proposes an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall file, simultaneously with its plan submitted under rule 3603, an application for a CPCN for such new resource. The Commission may consolidate, in accordance with the Commission's Rules of Practice and Procedure, the proceeding addressing that application for a CPCN with the resource planning proceeding. The utility shall provide a detailed estimate of the cost of the proposed facility to be constructed and information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate those alternatives.
- (f) The utility may participate in a competitive resource acquisition process by proposing the development of a new utility resource that the utility shall own as a rate base investment. The utility shall provide sufficient cost information in support of its proposal such that the Commission can reasonably compare the utility's proposal to alternative bids. In the event a utility proposes a rate base investment, the utility shall also propose how it intends to compare the utility rate based proposal(s) with non-utility bids. The Commission may also address the regulatory treatment of such costs with respect to future recovery.
- (g) Each utility shall propose a written bidding policy as part of its filing under rule 3603, including the assumptions, criteria, and models that will be used to solicit and evaluate [generation facility and energy storage system](#) bids in a fair and reasonable manner. The utility shall specify the competitive acquisition procedures that it intends to use to obtain resources under the utility's plan. The utility shall also propose, and other interested parties may provide input as part of the resource plan proceeding, criteria for evaluating the costs and benefits of resources such as the valuation of emissions and non-energy benefits.

- (h) In the event that the utility proposes to acquire specific resources through an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall provide the Commission with the following best value employment metric information regarding each resource:
 - (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.

3612. Independent Evaluator.

- (a) Prior to the filing of the plan under rule 3603, the utility shall file for Commission approval the name of the independent evaluator who the utility, the Staff of the Commission, and the OCC jointly propose. Should the utility, the Commission Staff, and the OCC fail to reach agreement on an independent evaluator, the Commission shall refer the matter to an administrative law judge for resolution. In any event, the Commission shall approve an independent evaluator by written decision within 30 days of the filing of the plan under rule 3603.
- (b) The utility shall pay for the services provided by the independent evaluator pursuant to a contract approved by the Commission. The terms of such contract shall prohibit the independent evaluator from assisting any entity making proposals to the utility for subsequent resource acquisitions for three years.
- (c) The utility shall work cooperatively with the independent evaluator and shall provide the independent evaluator immediate and continuing access to all documents and data reviewed, used, or produced by the utility in the preparation of its plan and in its bid solicitation, evaluation, and selection processes. The utility shall make available the appropriate utility staff to meet with the independent evaluator to answer questions and, if necessary, discuss the prosecution of work. The utility shall provide to the independent evaluator, in a timely manner so as to facilitate the deadlines outlined in these rules, bid evaluation results and modeling runs so that the independent evaluator can verify these results and can investigate options that the utility did not consider. In the event that the independent evaluator notes a problem or a deficiency in the bid evaluation process, the independent evaluator should notify the utility.

- (d) All parties in the resource plan proceeding other than the utility are restricted from initiating contacts with the independent evaluator. The independent evaluator may initiate contact with the utility and other parties. For all contacts with parties in the resource plan proceeding, including those with the utility, the independent evaluator shall maintain a log that briefly identifies the entities communicating with the independent evaluator, the date and duration of the communication, the means of communication, the topics discussed, and the materials exchanged, if any. Such log shall be posted weekly on the Commission's website for the duration of the independent evaluator's contract.
- (e) In the event that the utility proposes a method for resource acquisition other than all-source competitive bidding, the Commission may retain the independent evaluator to assist the Commission in the rendering a decision on such alternative method for resource acquisition. The independent evaluator shall file a report with the Commission, prior to the evidentiary hearings, concerning its assessment of the costs and benefits that the utility has presented to the Commission to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through that alternative method of resource acquisition. The independent evaluator shall also address in its report whether the utility's proposed competitive acquisition procedures and proposed bidding policy, including the assumptions, criteria and models, are sufficient to solicit and evaluate bids in a fair and reasonable manner.
- (f) The independent evaluator shall generally serve as an advisor to the Commission and shall generally not be a party to the proceedings. As such, the independent evaluator shall not be subject to discovery and cross-examination at hearing. The Commission shall convene at least one procedural conference to establish a procedure related to questions to the independent evaluator from the utility and parties regarding the independent evaluator's filings in the proceeding.

3613. Bid Evaluation and Selection.

- (a) Upon the receipt of bids in its competitive acquisition process, the utility shall investigate whether each potential resource meets the requirements specified in the resource solicitation and shall perform an initial assessment of the bids. Within 45 days of the utility's receipt of bids, the utility shall provide notice in writing by e-mail to the owner or developer of each potential resource stating whether its bid is advanced to computer-based modeling to evaluate the cost or the ranking of the potential resource, and, if not advanced, the reasons why the utility will not further evaluate the bid using computer-based modeling. If, after the utility issues notice to an owner or developer that the potential resource was not advanced to computer-based modeling, the utility subsequently advances that potential resource to computer-based modeling, the utility shall provide notice in writing by e-mail to the owner or developer of that potential resource within three business days of the utility's decision to advance the potential resource to computer-based modeling.

- (b) For bids advanced to computer-based modeling, the utility shall, contemporaneously with the notification in paragraph 3613(a), also provide to the owner or developer the modeling inputs and assumptions that reasonably relate to that potential resource or to the transmission of electricity from that facility to the utility. The utility shall provide such information so that modeling errors or omissions may be corrected before the competitive acquisition process is completed. Such information shall explain to the owner or developer how its facility will be represented in the computer-based modeling and what costs, in addition to the bid information, will be assumed with respect to the potential resource. In the event that this information contains confidential or highly confidential information, the owner or developer shall execute an appropriate nondisclosure agreement prior to receiving this information.
- (c) Within seven calendar days after receiving the modeling inputs and assumptions from the utility pursuant to paragraph 3613(b), the owner or developer of a potential resource shall notify the utility in writing by electronic mail the specific details of any potential dispute regarding these modeling inputs and assumptions. The owner or developer shall attempt to resolve this dispute with the utility. However, if the owner or developer and utility cannot resolve the dispute within three calendar days, the utility shall immediately notify the Commission with a filing in the resource plan proceeding. If the owner or developer is not already a party to the proceeding, the owner or developer shall file a notice of intervention as of right pursuant to paragraph 1401(b) of the Commission's Rules of Practice and Procedure, within one business day of the utility's filing of its notice of dispute to the Commission, for the limited purpose of resolving the disputed modeling inputs and assumptions related to the potential resource. An Administrative Law Judge (ALJ) will expeditiously schedule a technical conference at which the utility and the owner or developer shall present their dispute for resolution. The ALJ will enter an interim order determining whether corrections to the modeling inputs and assumptions are necessary. If the ALJ determines that corrections to the modeling inputs and assumptions are necessary, the utility shall, within three business days of the issuance of the ALJ's interim decision, provide the corrected information to both the owner or developer and the independent evaluator. In its report submitted under paragraph 3613(d), the utility shall also confirm by performing additional modeling as necessary, that the potential resource is fairly and accurately represented.
- (d) Within 120 days of the utility's receipt of bids in its competitive acquisition process, the utility shall file a report with the Commission describing the cost-effective resource plans that conform to the range of scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, [energy storage systems](#), or Section 123 resources as specified in the Commission's decision approving or rejecting the utility plan developed under rule 3604. In the event that the utility's preferred cost-effective resource plan differs from the Commission-specified scenarios, the utility's report shall also set forth the utility's preferred plan. The utility's plan shall also provide the Commission with the best value employment metrics information provided by bidders under rule 3616 and by the utility pursuant to rule 3611.
- (e) Within 30 days after the filing of the utility's 120-day report under paragraph 3613(d), the independent evaluator shall separately file a report that contains the independent evaluator's analysis of whether the utility conducted a fair bid solicitation and bid evaluation process, with any

deficiencies specifically reported. The independent evaluator shall provide confidential versions of these reports to Commission staff and the OCC.

- (f) Within 45 days after the filing of the utility's 120-day report under paragraph 3613(d), the parties in the resource plan proceeding may file comments on the utility's report and the independent evaluator's report.
- (g) Within 60 days after the filing of the utility's 120-day report under paragraph 3613(d), the utility may file comments responding to the independent evaluator's report and the parties' comments.
- (h) Within 90 days after the receipt of the utility's 120-day report under paragraph 3613(d), the Commission shall issue a written decision approving, conditioning, modifying, or rejecting the utility's preferred cost-effective resource plan, which decision shall establish the final cost-effective resource plan. The utility shall pursue the final cost-effective resource plan either with a due diligence review and contract negotiations, or with applications for CPCNs (other than those CPCNs provided in paragraph 3611(e)), as necessary. In rendering the decision on the final cost-effective resource plan, the Commission shall weigh the public interest benefits of competitively bid resources provided by other utilities and non-utilities as well as the public interest benefits of resources owned by the utility as rate base investments. In accordance with §§ 40-2-123, 40-2-124, 40-2-129, and 40-3.2-104, C.R.S, the Commission shall also consider renewable energy resources; resources that produce minimal emissions or minimal environmental impact; energy-efficient technologies; and resources that affect employment and the long-term economic viability of Colorado communities. The Commission shall further consider resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.
- (i) The utility must complete the competitive acquisition process by executing contracts for potential resources within 18 months after the utility's receipt of bids in its competitive acquisition process. The utility may file a motion in the resource plan proceeding requesting to extend this deadline for good cause. The utility must execute final contracts for the potential resources prior to the completion of the competitive acquisition process to receive the presumption of prudence afforded by paragraph 3617(d).
- (j) Upon completion of the competitive acquisition process pursuant to paragraph 3613(i), and consistent with the subsequent requirement for website posting of bids and utility proposals as required in paragraph 3613(k), protected information that was filed in the resource plan proceeding will be refiled as non-confidential or public information as specified in the Commission order described below. To satisfy this requirement the utility shall file a proposal that addresses the public release of all confidential and highly confidential information related to bids for potential resources and resources the utility proposed to build and own as a rate base investment. At a minimum the utility shall address its 120-day report in paragraph 3613(d), the independent evaluator's report in paragraph 3613(e), and all documents related to these reports filed by the utility, parties, or the independent evaluator. The utility shall file its proposal in the resource plan proceeding within 14 months after the receipt of bids in its competitive acquisition process. Parties will have 30 calendar days after the utility files its proposal to file responses. The utility then may reply to any responses filed within ten calendar days. The Commission shall issue an

order specifying to the utility and other parties the documents that shall be refiled as public information.

- (k) Upon completion of the competitive acquisition process under paragraph 3613(i), the utility shall post on its website the following information from all bids and utility proposals: bidder name; bid price and utility cost, stated in terms that allow reasonable comparison of the bids with utility proposals; generation technology type; size of facility; contract duration or expected useful life of facility for utility proposals; and whether the proposed power purchase contract includes an option for the utility to purchase the facility during or at the end of the contract term.

3614. Confidential Information Regarding Electric Generation Facilities and Energy Storage Systems.

- (a) In any proceeding related to a resource plan filed under rule 3603, an amendment to an approved plan filed under rule 3619, or pursuant to a request for information made under paragraph 3615(b), the provisions regarding confidential information set forth in rules 1100 through 1103 of the Commission's Rules of Practice and Procedure shall apply, in addition to this rule 3614.
- (b) The utility shall provide information claimed to be highly confidential under subparagraph 1101(b) to a reasonable number of attorneys representing a party in the resource plan proceeding, provided that those attorneys file appropriate non-disclosure agreements containing the terms listed in subparagraph 3614(b)(I). The utility shall also provide information claimed to be highly confidential under subparagraph 1101(b) to a reasonable number of subject matter experts representing a party in the resource plan proceeding, provided that the attorney representing the party files the appropriate non-disclosure agreements for the subject matter experts containing the terms in subparagraph 3614(b)(II) and the subject matter experts' curriculum vitae.
- (I) Attorney highly confidential nondisclosure agreement terms.

I [attorney name] state that I have read the protective provisions relating to confidential information contained in 4 Code of Colorado Regulations 723-1-1100 through 1103. With respect to all information claimed to be confidential and all information claimed to be highly confidential that is produced in, or arises in, the course of this proceeding in Proceeding No. [], I agree to be bound by the terms of the protective provisions contained in 4 Code of Colorado Regulations 723-1-1100. I hereby state that I will oversee the processes that any subject matter expert to whom I have authorized access to highly confidential information uses in order to assure that extraordinary confidentiality provisions are properly implemented and maintained. I hereby state that I will assure that extraordinary confidentiality provisions are properly implemented and maintained within my firm. I agree that all highly confidential information shall not be used or disclosed for purposes of business or competition, or for any other purpose other than for purposes of the proceeding in which the information is produced. I hereby state that I will not disclose or disseminate any highly confidential information in this Proceeding No. [] to any third party other than those specifically authorized to review such highly confidential information, including any third party who is or may become a bidder responding to future electric resource planning solicitations or otherwise relating to the acquisition of, contracting for, or retirement of electric generation facilities in Colorado.

(II) Subject Matter Expert highly confidential nondisclosure agreement terms.

I [subject matter expert's name] state that I have read the protective provisions relating to confidential information contained in 4 Code of Colorado Regulations 723-1-1100 through 1103. With respect to all information claimed to be confidential and all information claimed to be highly confidential that is produced in, or arises in the course of this proceeding in Proceeding No. [], I agree to be bound by the terms of the protective provisions contained in 4 Code of Colorado Regulations 723-1-1100. I hereby state that I will work with my attorney, [attorney name], to assure that extraordinary confidentiality provisions are properly implemented and maintained. I hereby state that I did not and will not develop or assist in the development of any power supply proposals associated with this proceeding. I agree that all highly confidential information shall not be used or disclosed for purposes of business or competition, or for any other purpose other than for purposes of the proceeding in which the information is produced. I hereby state that I will not disclose or disseminate any highly confidential information in this Proceeding No. [] to any third party other than those specifically authorized to review such highly confidential information, including any third party who is or may become a bidder responding to future electric resource planning solicitations or otherwise relating to the acquisition of, contracting for, or retirement of electric generation facilities in Colorado.

(c) Paragraph 3614(b) is only applicable to proceedings related to a resource plan filed pursuant to rule 3603, an amendment to an approved plan filed under rule 3619, or to a request for information made under paragraph 3615(b).

(d) In the case where the utility claims that information provided pursuant to paragraphs 3604(m), 3607(a) or 3608(c) related to energy storage systems is confidential, the utility shall indicate whether or not such confidential information should be provided to developers and bidders responding to RFPs. The utility shall provide a proposed non-disclosure agreement to provide developers and bidders responding to RFPs confidential information deemed appropriate by the Commission.

(e) In addition to any other remedy available to the Commission, if the Commission finds that a developer or bidder has failed to comply with any applicable rules, laws, or any conditions approved by the Commission pursuant to paragraph 3614(d), the Commission may deem that developer or bidder ineligible to bid or develop storage systems in the subsequent ERP.

(df) In order to expedite access to confidential information at the beginning of the resource planning proceeding, an entity may file for intervention at any time during the 30-day notice period established in paragraph 1401(a) of the Commission's Rules of Practice and Procedure. If the entity requests an expedited decision on its motion, it shall include in the title of its motion for intervention "REQUEST FOR EXPEDITED TREATMENT AND FOR SHORTENED RESPONSE TIME TO FIVE BUSINESS DAYS, PURSUANT TO RULE 3614(df)." The movant shall concurrently provide an electronic copy of the motion to the utility. Response time to any such motion is automatically shortened to five business days.

3615. Exemptions and Exclusions.

- (a) The following resources need not be included in an approved resource plan prior to acquisition.
- (I) Emergency maintenance or repairs made to utility-owned generation facilities.
 - (II) Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than 30 MW.
 - (III) Capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for not more than a two year term (including renewal terms) or for not more than 30 MW of capacity.
 - (IV) Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than 30 MW, based on the utility's share of the total power generation at the facility site and that have an estimated cost of not more than \$30 million.
 - (V) Interruptible service provided to the utility's electric customers.
 - (VI) Modification to, or amendment of, existing power purchase agreements provided the modification or amendment does not extend the agreement more than four years, does not add more than 30 MW of capacity to the utility's system, and is cost effective in comparison to other supply-side alternatives available to the utility.
 - (VII) Utility investments in emission control equipment at existing generation plants.
 - (VIII) Utility administered demand-side programs implemented in accordance with § 40-3.2-104, C.R.S.
- (b) If the utility evaluates an existing or proposed electric [generating-generation](#) facility offered in a competitive bidding process conducted outside of an approved resource plan, the utility shall provide the owner or developer of the electric generation facility in writing by e-mail the modeling inputs and assumptions that reasonably relate to the facility or to the transmission of electricity from that facility to the utility within 14 calendar days of the utility's decision to advance the potential resource to computer-based modeling.

3616. Request(s) For Proposals.

- (a) Purpose of the request(s) for proposals. The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire additional resources pursuant to rule 3611. To minimize bidder exceptions and to enhance bid comparability, the utility shall include in its proposed RFP(s) a model contract to match each type of resource need, including contracts for supply-side resources, [energy storage systems](#), renewable energy resources, or Section 123 resources as required by the approved resource plan.

- (b) Contents of the request(s) for proposals. The proposed RFP(s) shall include the bid evaluation criteria the utility plans to use in ranking the bids received. The utility shall also include in its proposed RFP(s): details concerning its resource needs; reasonable estimates of transmission costs for resources located in different areas pursuant to rule 3608, including a detailed description of how the costs of future transmission will apply to bid resources; the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control; [any physical and performance requirements for energy storage systems or instructions for bidders to explain characteristics of energy storage systems, including but not limited to discharge rates and durations, charging rates, response time, and cycling losses and limitations; and methodologies or credit mechanisms to value energy storage services provided to the utility system](#); the utility's proposed model contract(s) for the acquisition of resources; proposed contract term lengths; discount rate; general planning assumptions; and, any other information necessary to implement a fair and reasonable bidding program.
- (c) Employment metrics. The utility shall request from bidders the following information relating to best value employment metrics for each bid resource:
- (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.
- (d) When issuing its RFP, the utility shall provide potential bidders with the Commission's order or orders specifying the form of nondisclosure agreement necessary to obtain access to confidential and highly confidential modeling inputs and assumptions provided by the utility pursuant to paragraph 3613(b). The utility shall also provide potential bidders with an explanation of the process by which disputes regarding inputs and assumptions to computer-based modeling will be addressed by the Commission pursuant to paragraph 3613(b).
- (e) The utility shall require bidders to provide the contact name of the owner or developer designated to receive notice pursuant to paragraph 3613(a).
- (f) The utility shall inform bidders that certain bid information submitted in response to the RFP will be made available to the public through the posting of certain bid information on the utility's website upon the completion of the competitive acquisition process pursuant to paragraph 3613(k).

3617. Commission Review and Approval of Resource Plans.

- (a) Review on the merits. The utility's plan, as developed pursuant to rule 3604, shall be filed as an application; shall meet the requirements of paragraphs 3002(b) and 3002(c); and shall be

administered pursuant to the Commission's Rules Regulating Practice and Procedure. The Commission may hold a hearing for the purpose of reviewing, and rendering a decision regarding, the contents of the utility's filed resource plan.

- (b) Basis for Commission decision. Based upon the evidence of record, the Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part, to the utility's plan filed in accordance with rule 3604. If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission and shall provide the amended plan to all parties who participated in the application proceeding concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.
- (c) Contents of the Commission decision. The Commission decision approving or denying the plan shall address the contents of the utility's plan filed in accordance with rule 3604. If the record contains sufficient evidence, the Commission shall specifically approve or modify: the utility's assessment of need for additional resources in the resource acquisition period; the utility's plans for acquiring additional resources through an all-source competitive acquisition process or through an alternative acquisition process; components of the utility's proposed RFP, such as the model contracts and the proposed evaluation criteria; and, the alternate scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, [energy storage systems](#), or Section 123 resources. A Commission decision pursuant to paragraph 3613(h) shall become part of the decision approving or modifying a utility's plan developed under rule 3604.
- (d) Effect of the Commission decision. A Commission decision specifically approving the components of a utility's plan creates a presumption that utility actions consistent with that approval are prudent.
 - (I) In a proceeding concerning the utility's request to recover the investments or expenses associated with new resources.
 - (A) The utility must present prima facie evidence that its actions were consistent with Commission decisions specifically approving or modifying components of the plan.
 - (B) To support a Commission decision to disallow investments or expenses associated with new resources on the grounds that the utility's actions were not consistent with a Commission approved plan, an intervenor must present evidence to overcome the utility's prima facie evidence that its actions were consistent with Commission decisions approving or modifying components of the plan. Alternatively, an intervenor may present evidence that, due to changed circumstances timely known to the utility or that should have been known to a prudent person, the utility's actions were not proper.
 - (II) In a proceeding concerning the utility's request for a CPCN to meet customer need specifically approved by the Commission in its decision on the final cost-effective

resource plan, the Commission shall take administrative notice of its decision on the plan. Any party challenging the Commission's decision regarding need for additional resources has the burden of proving that, due to a change in circumstances, the Commission's decision on need is no longer valid.

3618. Reports.

- (a) Annual progress reports. The utility shall file with the Commission, and shall provide to all parties to the most recent resource planning proceeding, annual progress reports after submission of its plan application. The annual progress reports will inform the Commission of the utility's efforts under the approved plan and the emerging resource needs and potential utility proposals that may be part of the utility's next electric resource plan filing. Annual progress reports shall contain the following, for a running ten-year period beginning at the report date:
- (I) an updated annual electric demand and energy forecast developed pursuant to rule 3606;
 - (II) an updated evaluation of existing resources developed pursuant to rule 3607;
 - (III) an updated evaluation of planning reserve margins and contingency plans developed pursuant to rule 3609;
 - (IV) an updated assessment of need for additional resources developed pursuant to rule 3610;
 - (V) an updated report of the utility's plan to meet the resource need developed pursuant to rule 3611 and the resources the utility has acquired to date in implementation of the plan; and
 - (VI) in addition to the items required in subparagraphs(a)(I) through (a)(V), a cooperative electric generation and transmission association shall include in its annual report a full explanation of how its future resource acquisition plans will give fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.
- (b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:
- (I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: the identity of the bidders and the number of bids received; the quantity of MW offered by bidders; a breakdown of the number of bids and MW received by resource type; and, a description of the prices of the resources offered.

- (II) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file, within 30 days after bids are received, an application for approval of a contingency plan. The application shall include the information required by paragraphs 3002(b) and 3002(c), the justification for need of the contingency plan, the proposed action by the utility, the expected costs, and the expected timeframe for implementation.

3619. Amendment of an Approved Plan.

The utility may file, at any time, an application to amend the contents of a plan approved pursuant to rule 3617. Such an application shall meet the requirements of paragraphs 3002(b) and 3002(c), shall identify each proposed amendment, shall state the reason for each proposed amendment, and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure.

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, 40-3-103, 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, 40-7-113.5, 40-7-116.5, 40-8.7-105(5), and 40-9.5-107(5), C.R.S.

GENERAL PROVISIONS

3001. Definitions.

The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise. In addition to the definitions here, the definitions found in the Public Utilities Law and Part 1 apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply. In the event of a conflict between these definitions and a definition in Part 1, these definitions shall apply.

- (a) "Affiliate" of a utility means a subsidiary of a utility, a parent corporation of a public utility, a joint venture organized as a separate corporation or partnership to the extent of the individual utility's involvement with the joint venture, a subsidiary of a parent corporation of a utility or where the utility or the parent corporation has a controlling interest over an entity.

- (b) "Aggregated data" means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) and/or the compilation of customer data of one or more customers from which all unique identifiers and personal information has been removed.
- (c) "Applicant for service" means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (d) "Basis point" means one-hundredth of a percentage point (100 basis points = one percent).
- (e) "Benefit of service" means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.
- (f) "Commission" means the Colorado Public Utilities Commission.
- (g) "Contracted agent" means any person that has contracted with a utility in compliance with rule 3030 to assist in the provision of regulated utility services (e.g., an affiliate or vendor).
- (h) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- (i) "Customer data" means customer-specific data or information, excluding personal information as defined in paragraph 1004(x), that is:
 - (I) collected from the electric meter by the utility and stored in its data systems (e.g., kWh, kW, voltage, VARs and power factor);
 - (II) combined with customer-specific energy usage information on bills issued to the customer for regulated utility service when not publicly or lawfully available to the general public; or
 - (III) about the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs.
- (j) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs including substation transformers that transform electricity to a distribution voltage and also includes other equipment within a transforming substation which is not integral to the circuitry of the utility's transmission system.
- (k) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.

- (l) "Energy storage system" means a commercially available technology that is capable of retaining energy, storing the energy for a period of time, and delivering the energy as electricity after storage by chemical, thermal, mechanical, or other means.
- (m) "Financial security" includes any stock, bond, note, or other evidence of indebtedness.
- (n) "Generation facility" means a power plant that converts a primary energy resource into electricity. Primary energy resources include, but are not limited to: nuclear resources, coal, natural gas, hydro, wind, solar, biomass, and geothermal.
- (o) "Heavy load" means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.
- (p) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure.
- (q) "Light load" means approximately five to ten percent of the nameplate-rated capacity of a meter.
- (r) "Load" means the power consumed by an electric utility customer over time (measured in terms of either demand or energy or both).
- (s) "Local government" means any Colorado county, municipality, city and county, home rule city or town, home rule city and county, or city or town operating under a territorial charter.
- (t) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (u) "Main service terminal" means the point at which the utility's metering connections terminate.
- (v) "Major event" means an event as defined in and consistent with IEEE Standard Number 1366-2003, Guide for Electric Power Distribution Reliability Indices.
- (w) "MVA" means mega-volt amperes and is the vector sum of the real power and the reactive power.
- (x) "Non-standard customer data" means all customer data that are not standard customer data.
- (y) "Output" means the energy and power produced by a generation system.
- (z) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.
- (aa) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.

- (bb) "Property owner" means the legal owner of government record for a parcel of real property within the service territory of a utility. A utility may rely upon the records of a county clerk for the county within which a parcel of property is located to determine ownership of government record.
- (cc) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (dd) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission or contained in a tariff of the utility.
- (ee) "RFP" means request for proposals.
- (ff) "Rotating standard" means a portable meter used for testing service meters.
- (gg) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- (hh) "Service connection" is the location on the customer's premises/facilities at which a point of delivery of power between the utility and the customer is established. For example, in the case of a typical residential customer served from overhead secondary supply, this is the location at which the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.
- (ii) "Standard customer data" means customer data maintained by a utility in its systems in the ordinary course of business.
- (jj) "Third-party" means a person who is not the customer, an agent of the customer who has been designated by the customer with the utility and is acting of the customer's behalf, a regulated utility serving the customer, or a contracted agent, of the utility.
- (kk) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility's transmission system.
- (ll) "Unique identifier" means a customer's name, mailing address, telephone number, or email address that is displayed on a bill.
- (mm) "Unregulated charges" means charges that are billed by a utility to a customer and that are not regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.
- (nn) "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.

- (oo) "Utility service" or "service" means a service offering of a utility, which service offering is regulated by the Commission.
- (pp) "Whole building data" means the sum of the monthly electric use for either all meters at a building on a parcel or real property or all buildings on a parcel of real property.

* * * *

[indicates omission of unaffected rules]

3206. Construction or Extension of Transmission Facilities.

- (d) Annual report for planned transmission facilities. No later than April 30 of each year, each electric utility and each cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., shall file with the Commission its proposed new construction or extension of transmission facilities for the next three calendar years, commencing with the year following the filing. The filing shall contain a reference to all such proposed new construction or extensions, regardless of whether the utility or cooperative electric association has referenced such new construction or extensions in prior annual filings. Amended filings or filings of an emergency nature are permitted at any time. By submitting the proper information, the report may request a decision that projects are in the ordinary course of business and do not require a CPCN.
 - (l) The filing shall contain the following information for each project:
 - (A) the name, proposed location, and function or purpose of the project;
 - (B) if the project is a substation or related facilities: the voltage level and the MVA rating of transformers and shunt capacitors;
 - (C) if the project is a transmission line: the voltage, the length in miles, the continuous MVA rating, and the substation termination points;
 - (D) the alternatives considered by the utility in its transmission planning process including consideration for energy storage systems;
 - (E) the estimated cost of the project;
 - (F) the projected date for the start of construction, the estimated date of completion, and the estimated in-service date; and
 - (G) for new construction or extensions that were included in prior annual filings, an update of the status of, and any changes to, such new construction or extensions. Once a project is reported as completed or cancelled, its status can be removed in subsequent filings.

3207. Construction or Extension of Distribution Facilities.

- (a) Extension of distribution facilities, as authorized in § 40-5-101, C.R.S., is deemed to occur in the ordinary course of business and shall not require a certificate of public convenience and necessity.
- (b) Notwithstanding paragraph (a), the utility shall include consideration of energy storage systems in its planning processes as an alternative to construction or extension of distribution facilities where appropriate.
- (c) No later than April 30 of each year, each utility shall file with the Commission a report detailing how it has complied with paragraph (b) for the preceding calendar year.
- (d) The utility shall install and maintain service connections from distribution extensions, which is any construction of distribution facilities, including primary and secondary distribution lines, transformers, service laterals, and appurtenant facilities (except meters and meter installation facilities) that are necessary to supply service to one or more additional customers, consistent with conditions contained in the utility's tariff.
- (e) When a customer or potential customer requests a cost estimate of a distribution line extension, the utility shall provide a photovoltaic system cost comparison, if the following conditions are met:
 - (I) the customer or potential customer provides the utility with load data (estimated monthly kWh usage) as requested by the utility to conduct the comparison;
 - (II) the customer or potential customer's peak demand is estimated to be less than 25 KW.
- (f) In performing a photovoltaic system cost comparison analysis, the utility will consider line extension distance, overhead/underground construction, terrain, other variable construction costs, and the probability of additions to the line extension within the life of the open extension period.
- (g) If the customer or potential customer has a ratio of estimated monthly kWh usage divided by line extension mileage that is less than or equal to 1,000 (i.e., kWh/Mileage is $\leq 1,000$), the utility shall provide the photovoltaic system cost comparison at no cost to the customer or potential customer. If the ratio is greater than 1,000, the customer or potential customer shall bear the cost of the comparison, if the cost comparison is requested by the customer or potential customer.

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[indicates omission of unaffected rules]

ELECTRIC RESOURCE PLANNING

3600. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (i.e., rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3601. Overview and Purpose.

The purpose of these rules is to establish a process to determine the need for additional electric resources by electric utilities subject to the Commission's jurisdiction and to develop cost-effective resource portfolios to meet such need reliably. It is the policy of the state of Colorado that a primary goal of electric utility resource planning is to minimize the net present value of revenue requirements. It is also the policy of the state of Colorado that the Commission gives the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies.

3602. Definitions.

The following definitions apply to rules 3600 through 3619. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Availability factor" means the ratio of the time a generation facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.
- (b) "Annual capacity factor" means the ratio of the net energy produced by a generation facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year round.
- (c) "Cost-effective resource plan" means a designated combination of new resources that the Commission determines can be acquired at a reasonable cost and rate impact.
- (d) "Demand-side resources" means energy efficiency, energy conservation, load management, and demand response or any combination of these measures.
- (e) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.
- (f) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, resulting in a reduction in end-use services.
- (g) "Energy efficiency" means the decrease in electricity requirements of specific customers during any selected period with end-use services of such customers held constant.
- (h) "Heat rate" means the ratio of energy inputs used by a generation facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kWh.

- (i) "Modeling error or omission" means any incorrect, incomplete, or improper input to computer-based modeling performed by the utility, for evaluating a proposed resource, of a magnitude that alters the model results.
- (j) "Net present value of revenue requirements" means the current worth of the total expected future revenue requirements associated with a particular resource portfolio, expressed in dollars in the year the plan is filed as discounted by the appropriate discount rate.
- (k) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of revenue requirements for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.
- (l) "Potential resource" means a generation facility or energy storage system bid into a competitive acquisition process in accordance with an approved resource plan.
- (m) "Renewable energy resources" means all renewable energy resources as defined in the Commission's RES Rules.
- (n) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific resources to meet projected electric system demand and energy requirements. The resource acquisition period begins from the date the utility files its plan with the Commission.
- (o) "Resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.
- (p) "Resources" means supply-side resources, energy storage systems and demand-side resources used to meet electric system requirements.
- (q) "Section 123 resources" means new energy technology or demonstration projects, including new clean energy or energy-efficient technologies under § 40-2-123(1)(a), C.R.S. and § 40-2-123(1)(c), C.R.S., and Integrated Gasification Combined Cycle projects under § 40-2-123(2), C.R.S.
- (r) "Supply-side resources" means resources that provide electrical energy or capacity to the utility. Supply-side resources include utility owned generation facilities and energy or capacity purchased from other utilities and non-utilities.
- (s) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3603. Resource Plan Filing Requirements.

- (a) Jurisdictional electric utilities shall file a resource plan pursuant to these rules every four years beginning October 31, 2015. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than

the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing.

- (b) Each jurisdictional electric utility shall contemporaneously file with its resource plan submitted under paragraph 3603(a), a motion or motions seeking extraordinary protection of information listed as highly confidential pursuant to paragraph 3604(j) and consistent with rule 1101 of the Commission's Rules of Practice and Procedure. The utility shall specifically address appropriate confidentiality protections and nondisclosure requirements for modeling inputs and assumptions that may be used to evaluate a potential resource and that reasonably relate to that facility. The utility's motion or motions shall specify that response time shall run concurrently with the intervention deadline established in the resource plan proceeding. Finally, during the course of the resource plan proceeding, a utility may file additional motions seeking extraordinary protection of information for good cause shown.

3604. Contents of the Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility shall provide work-papers to support the information contained in the plan. The plan shall include the following.

- (a) A statement of the utility-specified resource acquisition period and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire resource plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of the needs of the utility system.
- (b) An annual electric demand and energy forecast developed pursuant to rule 3606.
- (c) An evaluation of existing resources developed pursuant to rule 3607.
- (d) An evaluation of transmission resources pursuant to rule 3608.
- (e) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule 3609.
- (f) An assessment of the need for additional resources developed pursuant to rule 3610.
- (g) The utility's plan for acquiring these resources pursuant to rule 3611, including a description of the projected emissions, in terms of pounds per MWH and short-tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for any resources proposed to be owned by the utility and for any new generic resources included in the utility's modeling for its resource plan.
- (h) The annual water consumption for each of the utility's existing generation resources, and the water intensity (in gallons per MWH) of the existing generating system as a whole, as well as the projected water consumption for any resources proposed to be owned by the utility and for any new generic resources included in the utility's modeling for its resource plan.

- (i) The proposed RFP(s) the utility intends to use to solicit bids for energy and capacity resources to be acquired through a competitive acquisition process, including model contracts, pursuant to rule 3616.
- (j) A list of the information related to the resource plan proceeding that the utility claims is confidential and a list of the information related to the resource plan proceeding that the utility claims is highly confidential. The utility shall also list the information that it will provide to owners or developers of a potential resource in RFP documents or under paragraphs 3613(a) and (b). The utility shall further explicitly list the protections it proposes for bid prices, other bid details, information concerning a new resource that the utility proposes to build and own as a rate base investment, other modeling inputs and assumptions, and the results of bid evaluation and selection. The protections sought by the utility for these items shall be specified in the motion(s) submitted under paragraph 3603(b). For good cause shown the utility may seek to protect additional information as confidential or highly confidential by filing the appropriate motion under rule 1101 of the Commission's Rules of Practice and Procedure in a timely manner.
- (k) Descriptions of at least three alternate plans that can be used to represent the costs and benefits from increasing amounts of renewable energy resources, demand-side resources, energy storage systems, or Section 123 resources as defined in paragraph 3602(q) potentially included in a cost-effective resource plan. One of the alternate plans shall represent a baseline case that describes the costs and benefits of the new utility resources required to meet the utility's needs during the planning period that minimize the net present value of revenue requirements and that complies with the RES, 4 CCR 723-3-3650, et seq., as well as with the demand-side resource requirements under § 40-3.2-104, C.R.S. The other alternate plans shall represent alternative combinations of resources that meet the same resource needs as the baseline case but that include proportionately more renewable energy resources, demand-side resources, energy storage systems, or Section 123 resources. The utility shall propose a range of possible future scenarios and input sensitivities for the purpose of testing the robustness of the alternate plans under various parameters.
- (l) An assessment of the costs and benefits of the integration of intermittent renewable energy resources on the utility's system, including peer-reviewed studies, consistent with the amounts of renewable energy resources the utility proposes to acquire.
- (m) Modeling assumptions and analytical methodology proposed to assess the costs and benefits of energy storage systems including, but not limited to: integration of intermittent resources; improvement of reliability; reduction in the need for increased generation facilities to meet periods of peak demand; and avoidance, reduction, or deferral of investments.
- (n) The utility shall propose how energy storage systems smaller than 30 MW in size may be accommodated in the all-source competitive acquisition process.

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, 3609(a) and 3610. Each cooperative generation and transmission association shall also file annual reports pursuant to subparagraphs (a)(I) through (a)(VI) of rule 3618.

3606. Electric Energy and Demand Forecasts.

- (a) Forecast requirements. The utility shall prepare the following energy and demand forecasts for each year within the planning period.
 - (I) Annual sales of energy and coincident summer and winter peak demand in total and disaggregated among Commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states.
 - (II) Annual sales of energy and coincident summer and winter peak demand on a system wide basis for each major customer class.
 - (III) Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand.
 - (IV) Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand.
 - (V) Annual system losses and the allocation of such losses to the transmission and distribution components of the system. Coincident summer and winter peak system losses and the allocation of such losses to the transmission and distribution components of the systems.
 - (VI) Typical day load patterns on a system-wide basis for each major customer class. This information shall be provided for peak-day, average-day, and representative off-peak days for each calendar month.
- (b) Range of forecasts. The utility shall develop and justify a range of forecasts of coincident summer and winter peak demand and energy sales that its system may reasonably be required to serve during the planning period. The range shall include base case, high, and low forecast scenarios of coincident summer and winter peak demand and energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.
- (c) Required detail.
 - (I) In preparing forecasts, the utility shall develop forecasts of energy sales and coincident summer and winter peak demand for each major customer class. The utility shall use end-use, econometric or other supportable methodology as the basis for these forecasts.

If the utility determines not to use end-use analysis, it shall explain the reason for its determination as well as the rationale for its chosen alternative methodology.

- (II) The utility shall maintain, as confidential, information reflecting historical and forecasted demand and energy use for individual customers in those cases when an individual customer is responsible for the majority of the demand and energy used by a particular rate class. However, when necessary in the resource plan proceedings, such information may be disclosed to parties who intervene in accordance with the terms of non-disclosure agreements approved by the Commission and executed by the parties seeking disclosure.
- (d) Historical data. The utility shall compare the annual forecast of coincident summer and winter peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the five years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecasts in its most recently filed resource plan to the annual forecasts in the current resource plan.
- (e) Description and justification. The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this rule, as well as the forecasts themselves.
- (f) Format and graphical presentation of data. The utility shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting parties in such electronic formats as the Commission shall reasonably require.

3607. Evaluation of Existing Resources.

- (a) Existing resource assessment. The utility shall describe its existing resources, all utility-owned generation facilities and energy storage systems for which the utility has obtained a CPCN from the Commission pursuant to § 40-5-101, C.R.S., at the time the plan is filed, and existing or future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description shall include, when applicable, the following.
 - (I) Name(s) and location(s) of utility-owned generation facilities and energy storage systems.
 - (II) Rated capacity and net dependable capacity of utility-owned generation facilities and energy storage systems.
 - (III) Fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities and availability factors for utility-owned energy storage systems over the resource acquisition period.
 - (IV) Estimated in-service dates for utility-owned generation facilities and energy storage systems for which a CPCN has been granted but which are not in service at the time the plan under consideration is filed.

- (V) Estimated remaining useful lives of utility-owned generation facilities and energy storage systems without significant new investment or maintenance expense.
 - (VI) The amount of capacity and energy from generation facilities, energy storage systems, and demand-side resources purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy from generation facilities or energy storage systems purchased pursuant to such contracts.
 - (VII) The amount of capacity and energy from generation facilities and energy storage systems provided pursuant to wheeling or coordination agreements, the duration of such wheeling or coordination agreements, and a description of any contract provisions that allow for modification of the amount of capacity and energy from generation facilities or energy storage systems provided pursuant to such wheeling or coordination agreements.
 - (VIII) The performance characteristics of utility-owned energy storage systems including but not limited to discharge rates and durations, charging rates, response time; and cycling losses and limitations.
 - (IX) The physical and performance characteristics of energy storage systems purchased from utilities and non-utilities including but not limited to: storage technology; discharge rates and durations; charging rates; response time; and cycling losses and limitations.
 - (X) The projected emissions, in terms of pounds per MWH and short-tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for the resources identified under this paragraph 3607(a).
 - (XI) The expected demand-side resources during the resource planning period from existing measures installed through utility-administered programs; and, from measures expected to be installed in the future through utility-administered programs in accordance with a Commission-approved plan.
- (b) Utilities required to comply with these rules shall coordinate their plan filings such that the amount of electricity purchases and sales between utilities during the planning period is reflected uniformly in their respective plans. Disputes regarding the amount, timing, price, or other terms and conditions of such purchases and sales shall be fully explained in each utility's plan. If a utility files an interim plan as specified in rule 3603, the utility is not required to coordinate that filing with other utilities.

3608. Transmission Resources.

- (a) The utility shall report its existing transmission capabilities, and future needs during the planning period, for facilities of 115 kilovolts and above, including associated substations and terminal facilities. The utility shall generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources.

- (b) With respect to future needs, the utility shall submit a description of all transmission lines and facilities appearing in its most recent report filed with the Commission pursuant to § 40-2-126, C.R.S., that, as identified in that report, could reasonably be placed into service during the resource acquisition period.
- (c) For each transmission line or facility identified in paragraph (b), the utility shall include the following information detailing assumptions to be used for resource planning and bid evaluation purposes:
 - (I) length and location;
 - (II) estimated in-service date;
 - (III) injection capacity and locations for generation facilities;
 - (IV) injection capacity and locations for energy storage systems;
 - (V) estimated costs;
 - (VI) terminal points; and
 - (VII) voltage and megawatt rating.
- (d) In order to equitably compare possible resource alternatives, the utility shall consider the transmission costs required by, or imposed on the system by, and the transmission benefits provided by a particular resource as part of the bid evaluation criteria.
- (e) The resource plan shall describe and shall estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process.

3609. Planning Reserve Margins and Contingency Plans.

- (a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices).
- (b) The utility shall develop and justify planning reserve margins for the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: the development of generation; losses of generation capacity purchase of power; losses of transmission capability; risks due to known or reasonably expected changes in environmental regulatory requirements; and, other risks. The utility shall develop planning reserve margins for its system over the planning period beyond the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.

- (c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its proposed contingency plans for the acquisition of additional resources if actual circumstances deviate from the most likely estimate of future resource needs developed pursuant to rule 3610; or, replacement resources in the event that resources are not developed in accordance with a Commission-approved plan under rule 3617. The utility will identify the estimated costs it will incur in developing the contingency plan for addressing the acquisition of these resources (e.g., purchasing equipment options, establishing sites, engineering). The Commission will consider approval of contingency plans only after the utility receives bids, as described in subparagraph 3618(b)(II). The provisions of paragraph 3617(d) shall not apply to the contingency plans unless explicitly ordered by the Commission.

3610. Assessment of Need for Additional Resources.

- (a) By comparing the electric energy and demand forecasts developed pursuant to rule 3606 with the existing level of resources developed pursuant to rule 3607, and planning reserve margins developed pursuant to rule 3609, the utility shall assess the need to acquire additional resources during the resource acquisition period.
- (b) In assessing its need to acquire additional resources, the utility shall also:
- (I) Determine the additional eligible energy resources, if any, the utility will need to acquire to comply with the Commission's RES rules.
 - (II) Take into account the demand-side resources it must acquire to meet the energy savings and peak demand reduction goals established under § 40-3.2-104, C.R.S. To that end, the Commission shall permit the utility to implement cost-effective demand-side resources to reduce the need for additional resources that would otherwise be met through a competitive acquisition process pursuant to rule 3611.
 - (III) Consider the benefits energy storage systems may provide to increase integration of intermittent resources, improve reliability; reduce the need for increased generation facilities to meet periods of peak demand; and avoid, reduce, or defer investments.
- (c) The Commission may give consideration of the likelihood of new environmental regulations and the risk of higher future costs associated with the emission of greenhouse gases such as carbon dioxide when it considers utility proposals to acquire additional resources during the resource acquisition period.

3611. Utility Plan for Meeting the Resource Need.

- (a) It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. The competitive bid process should afford all resources an opportunity to bid, and all new utility resources will be compared in order to determine a cost-effective resource plan (i.e., an all-source solicitation).

- (b) Notwithstanding the Commission's preference for all-source bidding for the acquisition of all new utility resources under these rules, the utility may propose in its filing under rule 3603, an alternative plan for acquiring the resources to meet the need identified in rule 3610. The utility shall specify the portion of the resource need that it intends to meet through an all-source competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.
- (c) If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire and the reason the specific resource(s) should not be acquired through an all-source competitive acquisition process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition.
- (d) Although the utility may propose a method for acquiring new utility resources other than all-source competitive bidding, as a prerequisite, the utility shall nonetheless include in its plan filed under rule 3603 the necessary bid policies, RFPs, and model contracts for common supply-side resources and energy storage systems necessary to satisfy the resource need identified under rule 3610 exclusively through all-source competitive bidding.
- (e) In the event that the utility proposes an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall file, simultaneously with its plan submitted under rule 3603, an application for a CPCN for such new resource. The Commission may consolidate, in accordance with the Commission's Rules of Practice and Procedure, the proceeding addressing that application for a CPCN with the resource planning proceeding. The utility shall provide a detailed estimate of the cost of the proposed facility to be constructed and information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate those alternatives.
- (f) The utility may participate in a competitive resource acquisition process by proposing the development of a new utility resource that the utility shall own as a rate base investment. The utility shall provide sufficient cost information in support of its proposal such that the Commission can reasonably compare the utility's proposal to alternative bids. In the event a utility proposes a rate base investment, the utility shall also propose how it intends to compare the utility rate based proposal(s) with non-utility bids. The Commission may also address the regulatory treatment of such costs with respect to future recovery.
- (g) Each utility shall propose a written bidding policy as part of its filing under rule 3603, including the assumptions, criteria, and models that will be used to solicit and evaluate generation facility and energy storage system bids in a fair and reasonable manner. The utility shall specify the competitive acquisition procedures that it intends to use to obtain resources under the utility's plan. The utility shall also propose, and other interested parties may provide input as part of the resource plan proceeding, criteria for evaluating the costs and benefits of resources such as the valuation of emissions and non-energy benefits.

- (h) In the event that the utility proposes to acquire specific resources through an alternative method of resource acquisition that involves the development of a new renewable energy resource or new supply-side resource that the utility shall own as a rate base investment, the utility shall provide the Commission with the following best value employment metric information regarding each resource:
 - (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.

3612. Independent Evaluator.

- (a) Prior to the filing of the plan under rule 3603, the utility shall file for Commission approval the name of the independent evaluator who the utility, the Staff of the Commission, and the OCC jointly propose. Should the utility, the Commission Staff, and the OCC fail to reach agreement on an independent evaluator, the Commission shall refer the matter to an administrative law judge for resolution. In any event, the Commission shall approve an independent evaluator by written decision within 30 days of the filing of the plan under rule 3603.
- (b) The utility shall pay for the services provided by the independent evaluator pursuant to a contract approved by the Commission. The terms of such contract shall prohibit the independent evaluator from assisting any entity making proposals to the utility for subsequent resource acquisitions for three years.
- (c) The utility shall work cooperatively with the independent evaluator and shall provide the independent evaluator immediate and continuing access to all documents and data reviewed, used, or produced by the utility in the preparation of its plan and in its bid solicitation, evaluation, and selection processes. The utility shall make available the appropriate utility staff to meet with the independent evaluator to answer questions and, if necessary, discuss the prosecution of work. The utility shall provide to the independent evaluator, in a timely manner so as to facilitate the deadlines outlined in these rules, bid evaluation results and modeling runs so that the independent evaluator can verify these results and can investigate options that the utility did not consider. In the event that the independent evaluator notes a problem or a deficiency in the bid evaluation process, the independent evaluator should notify the utility.

- (d) All parties in the resource plan proceeding other than the utility are restricted from initiating contacts with the independent evaluator. The independent evaluator may initiate contact with the utility and other parties. For all contacts with parties in the resource plan proceeding, including those with the utility, the independent evaluator shall maintain a log that briefly identifies the entities communicating with the independent evaluator, the date and duration of the communication, the means of communication, the topics discussed, and the materials exchanged, if any. Such log shall be posted weekly on the Commission's website for the duration of the independent evaluator's contract.
- (e) In the event that the utility proposes a method for resource acquisition other than all-source competitive bidding, the Commission may retain the independent evaluator to assist the Commission in the rendering a decision on such alternative method for resource acquisition. The independent evaluator shall file a report with the Commission, prior to the evidentiary hearings, concerning its assessment of the costs and benefits that the utility has presented to the Commission to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through that alternative method of resource acquisition. The independent evaluator shall also address in its report whether the utility's proposed competitive acquisition procedures and proposed bidding policy, including the assumptions, criteria and models, are sufficient to solicit and evaluate bids in a fair and reasonable manner.
- (f) The independent evaluator shall generally serve as an advisor to the Commission and shall generally not be a party to the proceedings. As such, the independent evaluator shall not be subject to discovery and cross-examination at hearing. The Commission shall convene at least one procedural conference to establish a procedure related to questions to the independent evaluator from the utility and parties regarding the independent evaluator's filings in the proceeding.

3613. Bid Evaluation and Selection.

- (a) Upon the receipt of bids in its competitive acquisition process, the utility shall investigate whether each potential resource meets the requirements specified in the resource solicitation and shall perform an initial assessment of the bids. Within 45 days of the utility's receipt of bids, the utility shall provide notice in writing by e-mail to the owner or developer of each potential resource stating whether its bid is advanced to computer-based modeling to evaluate the cost or the ranking of the potential resource, and, if not advanced, the reasons why the utility will not further evaluate the bid using computer-based modeling. If, after the utility issues notice to an owner or developer that the potential resource was not advanced to computer-based modeling, the utility subsequently advances that potential resource to computer-based modeling, the utility shall provide notice in writing by e-mail to the owner or developer of that potential resource within three business days of the utility's decision to advance the potential resource to computer-based modeling.

- (b) For bids advanced to computer-based modeling, the utility shall, contemporaneously with the notification in paragraph 3613(a), also provide to the owner or developer the modeling inputs and assumptions that reasonably relate to that potential resource or to the transmission of electricity from that facility to the utility. The utility shall provide such information so that modeling errors or omissions may be corrected before the competitive acquisition process is completed. Such information shall explain to the owner or developer how its facility will be represented in the computer-based modeling and what costs, in addition to the bid information, will be assumed with respect to the potential resource. In the event that this information contains confidential or highly confidential information, the owner or developer shall execute an appropriate nondisclosure agreement prior to receiving this information.
- (c) Within seven calendar days after receiving the modeling inputs and assumptions from the utility pursuant to paragraph 3613(b), the owner or developer of a potential resource shall notify the utility in writing by electronic mail the specific details of any potential dispute regarding these modeling inputs and assumptions. The owner or developer shall attempt to resolve this dispute with the utility. However, if the owner or developer and utility cannot resolve the dispute within three calendar days, the utility shall immediately notify the Commission with a filing in the resource plan proceeding. If the owner or developer is not already a party to the proceeding, the owner or developer shall file a notice of intervention as of right pursuant to paragraph 1401(b) of the Commission's Rules of Practice and Procedure, within one business day of the utility's filing of its notice of dispute to the Commission, for the limited purpose of resolving the disputed modeling inputs and assumptions related to the potential resource. An Administrative Law Judge (ALJ) will expeditiously schedule a technical conference at which the utility and the owner or developer shall present their dispute for resolution. The ALJ will enter an interim order determining whether corrections to the modeling inputs and assumptions are necessary. If the ALJ determines that corrections to the modeling inputs and assumptions are necessary, the utility shall, within three business days of the issuance of the ALJ's interim decision, provide the corrected information to both the owner or developer and the independent evaluator. In its report submitted under paragraph 3613(d), the utility shall also confirm by performing additional modeling as necessary, that the potential resource is fairly and accurately represented.
- (d) Within 120 days of the utility's receipt of bids in its competitive acquisition process, the utility shall file a report with the Commission describing the cost-effective resource plans that conform to the range of scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, energy storage systems, or Section 123 resources as specified in the Commission's decision approving or rejecting the utility plan developed under rule 3604. In the event that the utility's preferred cost-effective resource plan differs from the Commission-specified scenarios, the utility's report shall also set forth the utility's preferred plan. The utility's plan shall also provide the Commission with the best value employment metrics information provided by bidders under rule 3616 and by the utility pursuant to rule 3611.
- (e) Within 30 days after the filing of the utility's 120-day report under paragraph 3613(d), the independent evaluator shall separately file a report that contains the independent evaluator's analysis of whether the utility conducted a fair bid solicitation and bid evaluation process, with any

deficiencies specifically reported. The independent evaluator shall provide confidential versions of these reports to Commission staff and the OCC.

- (f) Within 45 days after the filing of the utility's 120-day report under paragraph 3613(d), the parties in the resource plan proceeding may file comments on the utility's report and the independent evaluator's report.
- (g) Within 60 days after the filing of the utility's 120-day report under paragraph 3613(d), the utility may file comments responding to the independent evaluator's report and the parties' comments.
- (h) Within 90 days after the receipt of the utility's 120-day report under paragraph 3613(d), the Commission shall issue a written decision approving, conditioning, modifying, or rejecting the utility's preferred cost-effective resource plan, which decision shall establish the final cost-effective resource plan. The utility shall pursue the final cost-effective resource plan either with a due diligence review and contract negotiations, or with applications for CPCNs (other than those CPCNs provided in paragraph 3611(e)), as necessary. In rendering the decision on the final cost-effective resource plan, the Commission shall weigh the public interest benefits of competitively bid resources provided by other utilities and non-utilities as well as the public interest benefits of resources owned by the utility as rate base investments. In accordance with §§ 40-2-123, 40-2-124, 40-2-129, and 40-3.2-104, C.R.S, the Commission shall also consider renewable energy resources; resources that produce minimal emissions or minimal environmental impact; energy-efficient technologies; and resources that affect employment and the long-term economic viability of Colorado communities. The Commission shall further consider resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.
- (i) The utility must complete the competitive acquisition process by executing contracts for potential resources within 18 months after the utility's receipt of bids in its competitive acquisition process. The utility may file a motion in the resource plan proceeding requesting to extend this deadline for good cause. The utility must execute final contracts for the potential resources prior to the completion of the competitive acquisition process to receive the presumption of prudence afforded by paragraph 3617(d).
- (j) Upon completion of the competitive acquisition process pursuant to paragraph 3613(i), and consistent with the subsequent requirement for website posting of bids and utility proposals as required in paragraph 3613(k), protected information that was filed in the resource plan proceeding will be refiled as non-confidential or public information as specified in the Commission order described below. To satisfy this requirement the utility shall file a proposal that addresses the public release of all confidential and highly confidential information related to bids for potential resources and resources the utility proposed to build and own as a rate base investment. At a minimum the utility shall address its 120-day report in paragraph 3613(d), the independent evaluator's report in paragraph 3613(e), and all documents related to these reports filed by the utility, parties, or the independent evaluator. The utility shall file its proposal in the resource plan proceeding within 14 months after the receipt of bids in its competitive acquisition process. Parties will have 30 calendar days after the utility files its proposal to file responses. The utility then may reply to any responses filed within ten calendar days. The Commission shall issue an

order specifying to the utility and other parties the documents that shall be refiled as public information.

- (k) Upon completion of the competitive acquisition process under paragraph 3613(i), the utility shall post on its website the following information from all bids and utility proposals: bidder name; bid price and utility cost, stated in terms that allow reasonable comparison of the bids with utility proposals; generation technology type; size of facility; contract duration or expected useful life of facility for utility proposals; and whether the proposed power purchase contract includes an option for the utility to purchase the facility during or at the end of the contract term.

3614. Confidential Information Regarding Electric Generation Facilities and Energy Storage Systems.

- (a) In any proceeding related to a resource plan filed under rule 3603, an amendment to an approved plan filed under rule 3619, or pursuant to a request for information made under paragraph 3615(b), the provisions regarding confidential information set forth in rules 1100 through 1103 of the Commission's Rules of Practice and Procedure shall apply, in addition to this rule 3614.
- (b) The utility shall provide information claimed to be highly confidential under subparagraph 1101(b) to a reasonable number of attorneys representing a party in the resource plan proceeding, provided that those attorneys file appropriate non-disclosure agreements containing the terms listed in subparagraph 3614(b)(I). The utility shall also provide information claimed to be highly confidential under subparagraph 1101(b) to a reasonable number of subject matter experts representing a party in the resource plan proceeding, provided that the attorney representing the party files the appropriate non-disclosure agreements for the subject matter experts containing the terms in subparagraph 3614(b)(II) and the subject matter experts' curriculum vitae.
 - (I) Attorney highly confidential nondisclosure agreement terms.

I [attorney name] state that I have read the protective provisions relating to confidential information contained in 4 Code of Colorado Regulations 723-1-1100 through 1103. With respect to all information claimed to be confidential and all information claimed to be highly confidential that is produced in, or arises in, the course of this proceeding in Proceeding No. [], I agree to be bound by the terms of the protective provisions contained in 4 Code of Colorado Regulations 723-1-1100. I hereby state that I will oversee the processes that any subject matter expert to whom I have authorized access to highly confidential information uses in order to assure that extraordinary confidentiality provisions are properly implemented and maintained. I hereby state that I will assure that extraordinary confidentiality provisions are properly implemented and maintained within my firm. I agree that all highly confidential information shall not be used or disclosed for purposes of business or competition, or for any other purpose other than for purposes of the proceeding in which the information is produced. I hereby state that I will not disclose or disseminate any highly confidential information in this Proceeding No. [] to any third party other than those specifically authorized to review such highly confidential information, including any third party who is or may become a bidder responding to future electric resource planning solicitations or otherwise relating to the acquisition of, contracting for, or retirement of electric generation facilities in Colorado.

(II) Subject Matter Expert highly confidential nondisclosure agreement terms.

I [subject matter expert's name] state that I have read the protective provisions relating to confidential information contained in 4 Code of Colorado Regulations 723-1-1100 through 1103. With respect to all information claimed to be confidential and all information claimed to be highly confidential that is produced in, or arises in the course of this proceeding in Proceeding No. [], I agree to be bound by the terms of the protective provisions contained in 4 Code of Colorado Regulations 723-1-1100. I hereby state that I will work with my attorney, [attorney name], to assure that extraordinary confidentiality provisions are properly implemented and maintained. I hereby state that I did not and will not develop or assist in the development of any power supply proposals associated with this proceeding. I agree that all highly confidential information shall not be used or disclosed for purposes of business or competition, or for any other purpose other than for purposes of the proceeding in which the information is produced. I hereby state that I will not disclose or disseminate any highly confidential information in this Proceeding No. [] to any third party other than those specifically authorized to review such highly confidential information, including any third party who is or may become a bidder responding to future electric resource planning solicitations or otherwise relating to the acquisition of, contracting for, or retirement of electric generation facilities in Colorado.

- (c) Paragraph 3614(b) is only applicable to proceedings related to a resource plan filed pursuant to rule 3603, an amendment to an approved plan filed under rule 3619, or to a request for information made under paragraph 3615(b).
- (d) In the case where the utility claims that information provided pursuant to paragraphs 3604(m), 3607(a) or 3608(c) related to energy storage systems is confidential, the utility shall indicate whether or not such confidential information should be provided to developers and bidders responding to RFPs. The utility shall provide a proposed non-disclosure agreement to provide developers and bidders responding to RFPs confidential information deemed appropriate by the Commission.
- (e) In addition to any other remedy available to the Commission, if the Commission finds that a developer or bidder has failed to comply with any applicable rules, laws, or any conditions approved by the Commission pursuant to paragraph 3614(d), the Commission may deem that developer or bidder ineligible to bid or develop storage systems in the subsequent ERP.
- (f) In order to expedite access to confidential information at the beginning of the resource planning proceeding, an entity may file for intervention at any time during the 30-day notice period established in paragraph 1401(a) of the Commission's Rules of Practice and Procedure. If the entity requests an expedited decision on its motion, it shall include in the title of its motion for intervention "REQUEST FOR EXPEDITED TREATMENT AND FOR SHORTENED RESPONSE TIME TO FIVE BUSINESS DAYS, PURSUANT TO RULE 3614(f)." The movant shall concurrently provide an electronic copy of the motion to the utility. Response time to any such motion is automatically shortened to five business days.

3615. Exemptions and Exclusions.

- (a) The following resources need not be included in an approved resource plan prior to acquisition.
 - (I) Emergency maintenance or repairs made to utility-owned generation facilities.
 - (II) Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than 30 MW.
 - (III) Capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for not more than a two year term (including renewal terms) or for not more than 30 MW of capacity.
 - (IV) Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than 30 MW, based on the utility's share of the total power generation at the facility site and that have an estimated cost of not more than \$30 million.
 - (V) Interruptible service provided to the utility's electric customers.
 - (VI) Modification to, or amendment of, existing power purchase agreements provided the modification or amendment does not extend the agreement more than four years, does not add more than 30 MW of capacity to the utility's system, and is cost effective in comparison to other supply-side alternatives available to the utility.
 - (VII) Utility investments in emission control equipment at existing generation plants.
 - (VIII) Utility administered demand-side programs implemented in accordance with § 40-3.2-104, C.R.S.
- (b) If the utility evaluates an existing or proposed electric generation facility offered in a competitive bidding process conducted outside of an approved resource plan, the utility shall provide the owner or developer of the electric generation facility in writing by e-mail the modeling inputs and assumptions that reasonably relate to the facility or to the transmission of electricity from that facility to the utility within 14 calendar days of the utility's decision to advance the potential resource to computer-based modeling.

3616. Request(s) For Proposals.

- (a) Purpose of the request(s) for proposals. The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire additional resources pursuant to rule 3611. To minimize bidder exceptions and to enhance bid comparability, the utility shall include in its proposed RFP(s) a model contract to match each type of resource need, including contracts for supply-side resources, energy storage systems, renewable energy resources, or Section 123 resources as required by the approved resource plan.

- (b) Contents of the request(s) for proposals. The proposed RFP(s) shall include the bid evaluation criteria the utility plans to use in ranking the bids received. The utility shall also include in its proposed RFP(s): details concerning its resource needs; reasonable estimates of transmission costs for resources located in different areas pursuant to rule 3608, including a detailed description of how the costs of future transmission will apply to bid resources; the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control; [any physical and performance requirements for energy storage systems or instructions for bidders to explain characteristics of energy storage systems, including but not limited to discharge rates and durations, charging rates, response time, and cycling losses and limitations; and methodologies or credit mechanisms to value energy storage services provided to the utility system](#); the utility's proposed model contract(s) for the acquisition of resources; proposed contract term lengths; discount rate; general planning assumptions; and, any other information necessary to implement a fair and reasonable bidding program.
- (c) Employment metrics. The utility shall request from bidders the following information relating to best value employment metrics for each bid resource:
 - (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.
- (d) When issuing its RFP, the utility shall provide potential bidders with the Commission's order or orders specifying the form of nondisclosure agreement necessary to obtain access to confidential and highly confidential modeling inputs and assumptions provided by the utility pursuant to paragraph 3613(b). The utility shall also provide potential bidders with an explanation of the process by which disputes regarding inputs and assumptions to computer-based modeling will be addressed by the Commission pursuant to paragraph 3613(b).
- (e) The utility shall require bidders to provide the contact name of the owner or developer designated to receive notice pursuant to paragraph 3613(a).
- (f) The utility shall inform bidders that certain bid information submitted in response to the RFP will be made available to the public through the posting of certain bid information on the utility's website upon the completion of the competitive acquisition process pursuant to paragraph 3613(k).

3617. Commission Review and Approval of Resource Plans.

- (a) Review on the merits. The utility's plan, as developed pursuant to rule 3604, shall be filed as an application; shall meet the requirements of paragraphs 3002(b) and 3002(c); and shall be

administered pursuant to the Commission's Rules Regulating Practice and Procedure. The Commission may hold a hearing for the purpose of reviewing, and rendering a decision regarding, the contents of the utility's filed resource plan.

- (b) Basis for Commission decision. Based upon the evidence of record, the Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part, to the utility's plan filed in accordance with rule 3604. If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission and shall provide the amended plan to all parties who participated in the application proceeding concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.
- (c) Contents of the Commission decision. The Commission decision approving or denying the plan shall address the contents of the utility's plan filed in accordance with rule 3604. If the record contains sufficient evidence, the Commission shall specifically approve or modify: the utility's assessment of need for additional resources in the resource acquisition period; the utility's plans for acquiring additional resources through an all-source competitive acquisition process or through an alternative acquisition process; components of the utility's proposed RFP, such as the model contracts and the proposed evaluation criteria; and, the alternate scenarios for assessing the costs and benefits from the potential acquisition of increasing amounts of renewable energy resources, demand-side resources, energy storage systems, or Section 123 resources. A Commission decision pursuant to paragraph 3613(h) shall become part of the decision approving or modifying a utility's plan developed under rule 3604.
- (d) Effect of the Commission decision. A Commission decision specifically approving the components of a utility's plan creates a presumption that utility actions consistent with that approval are prudent.
 - (I) In a proceeding concerning the utility's request to recover the investments or expenses associated with new resources.
 - (A) The utility must present prima facie evidence that its actions were consistent with Commission decisions specifically approving or modifying components of the plan.
 - (B) To support a Commission decision to disallow investments or expenses associated with new resources on the grounds that the utility's actions were not consistent with a Commission approved plan, an intervenor must present evidence to overcome the utility's prima facie evidence that its actions were consistent with Commission decisions approving or modifying components of the plan. Alternatively, an intervenor may present evidence that, due to changed circumstances timely known to the utility or that should have been known to a prudent person, the utility's actions were not proper.
 - (II) In a proceeding concerning the utility's request for a CPCN to meet customer need specifically approved by the Commission in its decision on the final cost-effective

resource plan, the Commission shall take administrative notice of its decision on the plan. Any party challenging the Commission's decision regarding need for additional resources has the burden of proving that, due to a change in circumstances, the Commission's decision on need is no longer valid.

3618. Reports.

- (a) Annual progress reports. The utility shall file with the Commission, and shall provide to all parties to the most recent resource planning proceeding, annual progress reports after submission of its plan application. The annual progress reports will inform the Commission of the utility's efforts under the approved plan and the emerging resource needs and potential utility proposals that may be part of the utility's next electric resource plan filing. Annual progress reports shall contain the following, for a running ten-year period beginning at the report date:
- (I) an updated annual electric demand and energy forecast developed pursuant to rule 3606;
 - (II) an updated evaluation of existing resources developed pursuant to rule 3607;
 - (III) an updated evaluation of planning reserve margins and contingency plans developed pursuant to rule 3609;
 - (IV) an updated assessment of need for additional resources developed pursuant to rule 3610;
 - (V) an updated report of the utility's plan to meet the resource need developed pursuant to rule 3611 and the resources the utility has acquired to date in implementation of the plan; and
 - (VI) in addition to the items required in subparagraphs(a)(I) through (a)(V), a cooperative electric generation and transmission association shall include in its annual report a full explanation of how its future resource acquisition plans will give fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.
- (b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:
- (I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: the identity of the bidders and the number of bids received; the quantity of MW offered by bidders; a breakdown of the number of bids and MW received by resource type; and, a description of the prices of the resources offered.

- (II) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file, within 30 days after bids are received, an application for approval of a contingency plan. The application shall include the information required by paragraphs 3002(b) and 3002(c), the justification for need of the contingency plan, the proposed action by the utility, the expected costs, and the expected timeframe for implementation.

3619. Amendment of an Approved Plan.

The utility may file, at any time, an application to amend the contents of a plan approved pursuant to rule 3617. Such an application shall meet the requirements of paragraphs 3002(b) and 3002(c), shall identify each proposed amendment, shall state the reason for each proposed amendment, and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure.