

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25R-0468ALL

IN THE MATTER OF THE PROPOSED RULES OF PRACTICE AND PROCEDURE, 4 CODE OF COLORADO REGULATIONS 723-1, TO IMPLEMENT SENATE BILL 21-272 REGARDING EQUITY PROCESS IMPLEMENTATION.

NOTICE OF PROPOSED RULEMAKING

Issued Date: November 10, 2025

Adopted Date: October 29, 2025

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I. BY THE COMMISSION

A. Statement

1. By this Decision, the Colorado Public Utilities Commission (“Commission”) issues this Notice of Proposed Rulemaking (“NOPR”) to consider amendments and additions to the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1.

2. The statutory authority for the rules proposed in the Proceeding is found at § 40-1-103, C.R.S., and Senate Bill (“SB”) 21-272, codified at § 40-2-108 *et seq.*, C.R.S.

3. The proposed rule changes are set forth in both legislative (*i.e.*, strikeout/redline) format (Attachment A) and final format (Attachment B).

4. Through this NOPR, the Commission solicits comments from interested persons on the amendments proposed in this Decision and its attachments. Interested persons may file written comments including data, views, and arguments into this Proceeding for consideration. The Commission also welcomes the submission of alternative proposed rules, including both consensus proposals joined by multiple rulemaking participants and individual proposals. Participants are encouraged to provide redlines of any specific proposed rule changes.

5. The Commission refers this matter to an Administrative Law Judge (“ALJ”) for a recommended decision. The ALJ will hold a remote public hearing on the proposed rules at **11:00 a.m. on February 17, 2026.**

6. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. Initial written comments are requested to be filed no later than December 23, 2025, and any written comments responsive to the initial comments are requested to be filed no later than January 27, 2026.

B. Background

7. SB 21-272 directed the Commission to consider how best to provide equity, minimize impacts, and prioritize benefits to disproportionately impacted communities, and to address historical inequalities in all of its work.

8. On April 28, 2022, by Decision No. C22-0239, the Commission opened Proceeding No. 22M-0171ALL to inform its implementation of SB 21-272. The decision set initial proceeding objectives and sought written comments. Commissioner Megan Gilman was subsequently assigned as the Hearing Commissioner to conduct the proceeding.

9. On September 15, 2023, by Decision No. R23-0625-I, Hearing Commissioner Gilman directed a team of Staff of the Public Utilities Commission (“Staff”) to create and execute a work plan to engage stakeholders on the implementation of SB 21-272 and to file a report summarizing information gathered throughout the process.

10. The resulting Staff Capstone Report for Proceeding No. 22M-0171ALL: SB 21-272 Equity Implementation (“Capstone Report”) was produced on July 22, 2024. The Capstone Report summarized comments filed in the proceeding, identified potential issues which may require further legislative direction, recommended changes the Commission can make

to its rules and policies to consider equity in all of its work, and addressed whether enough information has been gathered so that the Commission could initiate one or more rulemakings.

11. In the Capstone Report, Staff presented four major concepts, among many other recommendations and insights, for the Commission's consideration in future rulemakings. The major rulemaking recommendations for the Commission were as follows: (1) the designation of proceedings as "equity impact proceedings," (2) the requirement that utilities develop "energy equity plans," (3) the implementation of practice and procedure changes, and (4) the adoption of key definitions in rule.¹

12. As detailed in the Capstone Report, extensive outreach was conducted by Commission Staff, and included staff and commissioner-led activities, presentations to Colorado state boards, participation in activities hosted by other stakeholders (*e.g.*, local governments and community-based organizations), and the formation of an Equity Advisory Focus Group.² Additionally, throughout Proceeding No. 22M-0171ALL, the Commission received comments and feedback from a number of stakeholders representing various interests across the state.³

13. Proceeding No. 22M-0171ALL was conducted as a "pre-rulemaking" with the intention to better understand the issues the Commission should consider when implementing SB 21-272. The resulting Capstone Report was intended to provide the requisite information to enable the Commission to conduct a subsequent rulemaking implementing SB 21-272.

¹ Capstone Report at pp. 4-5.

² See Appendix A to the Capstone Report.

³ Participants in the pre-rulemaking included the Colorado Energy Office; Colorado Natural Gas; Public Service Company of Colorado; Atmos Energy Corporation; the Office of the Utility Consumer Advocate; Western Resource Advocates; Black Hills Colorado; Colorado Rural Electric Association; the City and County of Denver; Laborers' Local 720; the City of Boulder; the Prison Policy Initiative; the Environmental Justice Coalition (composed of Cultivando, GreenLatinos, GRID Alternatives, Mi Familia Vota, Mothers Out Front, NAACP Colorado Montana Wyoming State-Area Conference, NAACP Denver, Vote Solar, and Womxn from the Mountain); Clean Energy Action; and various other public commenters.

14. Through Decision No. R24-0635-I, issued September 4, 2024, Hearing Commissioner Gilman closed the proceeding and directed Staff to bring forward one or more proposed rulemakings for consideration.

C. Discussion

15. We continue to agree with the statements in the Capstone Report, including that important updates and revisions to Commission rules and policies are needed to further improve and provide access to Commission processes. Many of these changes require rule updates that impact docketed proceedings, but at the same time necessitate procedural improvements through internal policy changes as well. We further emphasize that any rulemaking or policy updates will be iterative. As we propose rule updates, we recognize that there will undoubtedly be lessons learned in coming years. Nevertheless, we open this rulemaking and propose specific changes to take steps forward in improved and inclusive procedural considerations.

16. We focus this rulemaking on the Rules of Practice and Procedure, including proposals to update definitions and processes, and define certain proceedings proactively as “equity impact proceedings” that warrant additional, specific information and filings early on such that disproportionately impacted communities and equity considerations may be fulsomely discussed throughout the proceeding. The rules further identify and clarify key points of proceedings and filings, including concurrent with intervention requests, where parties can raise elevated concerns with respect to equity and disproportionately impacted communities such that the Commission can take appropriate next steps or provide subsequent direction upon consideration.

17. The Capstone Report and underlying participant workshops significantly shaped the proposed rules. As discussed below, however, not all updates from the Capstone Report led to

proposed rule amendments or additions in this NOPR. Notably, while the Capstone Report included the concept of “energy equity plans” we do not at this time propose planning rules in line with that concept. Rather, we start the process here by focusing on identifying “equity impact proceedings” to be defined and identified, while at the same time allowing the Commission to identify any additional proceedings as equity impact proceedings based on the facts and circumstances presented. We believe this stepped approach will allow participants and parties to use existing proceedings more effectively with pointed information provided regarding equity and disproportionately impacted communities. We focus here on procedural updates and, while many of the identified “equity impact proceedings” are necessarily energy proceedings, a potential planning process proceeding, and accompanying rules, can be a future consideration to pair with these more general process updates. Given current staffing and required filings from utilities, we propose these rules without proposing “energy equity plans” at this time, balancing the needs for further process, the ability to learn from these initial procedural rules, and the intention to avoid inadvertently burdening filing parties.

18. In addition, we note that, in conjunction with the proposed amendments and additions in this Proceeding, the Commission will be concurrently updating its internal policies. The Commission has identified several areas where internal policy updates, rather than rule amendments, would be more effective and efficient in implementing SB 21-272. Policy discussions relevant to correlating rules are included below, and encompass actions generally administered by the Director of the Commission in guiding Staff and managing the Commission, consistent with all rules and directives. Policies may include, but are not limited to, tribal consultation and communication, and language accessibility.

19. Below, we outline specific rule changes and additions, including corresponding initial reasoning consistent with recommendations in the Capstone Report. Comments are welcome, including from participants in pre-rulemaking processes that culminated in the Capstone Report, and may reiterate positions stated previously as well as new considerations as they relate to the proposed redlines.

D. Proposed Rule Changes

1. Rule 1004 – Definitions

20. “Colorado EnviroScreen” is added and proposed to be defined as the environmental justice mapping tool developed and administered pursuant to § 24-4-109(5)(a)(I), C.R.S.⁴ This tool was developed and is maintained by the Colorado Department of Health and Human Services (“CDHHS”), in partnership with the Colorado Department of Public Health and Environment (“CDPHE”). We note this tool would not be incorporated by reference into the Commission’s rules. Instead, the rule is intended to refer parties to the tool generally. Since EnviroScreen is updated regularly, it is our expectation that parties would reference and submit information from the most recently updated version of EnviroScreen that is available at the time of use. The proposed definition here makes clear that, when referenced in rules elsewhere, the most recent version of the Colorado EnviroScreen tool developed and maintained by CDHHS in partnership with CDPHE should be used.

21. “Disproportionately impacted community” is proposed to be defined as follows:

⁴ “The division of administration in the Colorado department of public health and environment shall administer the Colorado EnviroScreen tool so that a census block group that scores above the eightieth percentile in the Colorado EnviroScreen tool is presumed to be a disproportionately impacted community under subsection (2)(b)(II)(F) of this section. A statewide agency determining whether a community is a disproportionately impacted community under subsection (2)(b)(II)(F) of this section shall apply the most recent version of the Colorado EnviroScreen tool available at the time the statewide agency makes the determination.”

A disproportionately impacted community is a community that meets one or more of the following criteria:

- (I) the community is a mobile home park as defined by § 38-12-201.5(6).
- (II) the community is located on the Southern Ute or Ute Mountain Ute Indian Reservation.
- (III) as shown on Colorado EnviroScreen, the community is within a census block group as determined in accordance with the most recent five-year United States Bureau of the Census American Community Survey and meets one or more of the following criteria:
 - (A) the proportion of the population living in households that are below 200 percent of the federal poverty level is greater than 40 percent within the census block group;
 - (B) the proportion of households that spend more than 30 percent of household income on housing is greater than 50 percent within the census block group;
 - (C) the proportion of the population that identifies as people of color is greater than 40 percent within the census block group;
 - (D) the proportion of the population that is linguistically isolated is greater than 20 percent within the census block group;
 - (E) the census block group is within a census tract that qualifies as disadvantaged under the most recent version of the Climate and Economic Justice Screening Tool developed by the Council on Environmental Quality in the Office of the President of the United States;
 - (F) the census block group scores above the eightieth percentile using Colorado EnviroScreen; or
 - (G) the census block group has been determined to be a disproportionately impacted community by the Commission or another statewide agency pursuant to rule (TK).

- (IV) The community is a vulnerable population as approved by the Commission in a relevant proceeding based on at least one of the following characteristics:
- (A) experiencing multiple factors, including socioeconomic stressors, public health vulnerabilities, disproportionate environmental burdens, vulnerability to environmental degradation or climate change, and lack of public participation in decision-making, which may act individually or cumulatively to contribute to disparities in health, economic, or social conditions within these populations; or
 - (B) experiencing one or more common conditions including but not limited to race, income, disability, or Tribal or Indigenous status.

22. These two new definitions are aimed at helping clarify and align understanding of the EnviroScreen mapping tool for use in Commission proceedings, in addition to defining disproportionately impacted communities. We note that the included terms within the definition of “disproportionately impacted community” include specified percentages (*e.g.*, federal poverty level, household income, etc.) and phrases such as “linguistically isolated,” among others. These are mapping layers that can be applied using the EnviroScreen tool and thus are not defined further within the proposed rules. We welcome comments on whether these terms should be included or referenced differently.

23. Whether a community is a “vulnerable population,” referenced in Rule 1004(q)(IV) and defined in proposed Rule 1602(c), will be determined and confirmed by the Commission through an order in each proceeding. However, a filing referencing a prior Commission determination that a given community is a “vulnerable population” could be helpful for the Commission in a subsequent relevant proceeding.

24. We note the inclusion of communities located on the Southern Ute or Ute Mountain Ute Indian Reservation within the definition of disproportionately impacted community.⁵ In the context of this proposed rulemaking, while the proposed definition of disproportionately impacted communities would not necessarily include historic sites as an impacted location, such sites may be part of an equity consideration in some circumstances. We further note that, consistent with recommendations in Proceeding No. 24R-0306E and the Capstone Report, the Director should continue efforts to further engage in and create, in consultation with Tribal Nations, appropriate communications policies. Improved communications policies will better assist the Commission and its staff in specific proceedings based on the circumstances presented.

25. “Retail customer program” is added and defined as an opportunity provided to a retail customer of a regulated electric or gas utility which may include incentives, rebates, financing, services, or other offerings. In addition to customer programs designated by Commission order or industry-specific rules, retail customer programs include, but are not limited to, residential customer programs related to beneficial electrification, clean heat, demand-side management, renewable energy, and transportation electrification. Programs related to the regular delivery of utility services are not retail customer programs.

26. We note this definition is proposed to be limited to retail customers of electric and gas utilities given the statutory construction, and considering that incentives, rebates, financing, etc., are offered primarily in the context of electric and gas services. The Commission can, by

⁵ Tribal considerations contemplated in a separate rulemaking were recently not recommended for adoption in Recommended Decision No. R25-0515 issued in Proceeding No. 24R-0306E (July 15, 2025). Through Decision No. C25-0628, issued August 29, 2025, the Commission granted exceptions to the Recommended Decision, in part, and upheld the decision not to adopt the proposed rules. Instead, the Commission, among other things, stated its intention to begin a new, separate rulemaking in order to adopt a policy of avoidance to express the Commission’s commitment to protecting tribal sacred sites and cultural landscapes from unnecessary impacts during the planning and development of transmission and generation infrastructure.

decision in future proceedings, include other types of retail customer programs on a case-by-case basis as well if such circumstances arise in an equity impact proceeding.

27. These proposed definitions are aligned with Commission Staff's proposals in the Capstone Report, which suggested the Commission adopt definitions arising in key legislation.⁶ The statutory definition of disproportionately impacted community was originally established in SB 21-272, subsequently modified by House Bill 23-1233, and is currently codified at § 24-4-109(2)(b)(II), C.R.S.⁷ The Commission's proposed definition aligns with this statutory definition, as well as the Capstone Report's recommendation that the definition of disproportionately impacted communities remain flexible.⁸

28. Similarly, legislation directed the Commission to host informational meetings, workshops, and hearings that invite input from disproportionately impacted communities when making decisions related to retail customer programs.⁹ The proposed definition is in line with Staff's recommendation on this issue as well, which was based on comments received from stakeholders that what qualifies as a retail customer program be clearly defined.¹⁰ The Commission can still include workshops and other processes in other proceedings through specific decisions, but the proposed rule is intended to provide clarity.

29. Also included in the proposed rule changes are a few other minor amendments to existing rules, including adding a definition of "participant" and a minor addition to the existing definition of "personal information." Adding the definition of "participant" is intended to make clearer, particularly for rulemaking proceedings, that commenters are not "parties."

⁶ Capstone Report at p. 5.

⁷ As reflected in the proposed definition, this codification is referenced in § 40-1-102(6.5).

⁸ Capstone Report at p. 43.

⁹ § 40-2-108(3)(c)(II), C.R.S.

¹⁰ Capstone Report at p. 57.

“Personal information” is amended to include socioeconomic information in a regulated entity’s possession or control when not that information publicly or lawfully available to the general public. This is intended to cover socioeconomic information that may be compiled by a utility in an equity impact proceeding.

30. Additionally, there is an update of the cited version of the Colorado Rules of Civil Procedure (“CRCP”), from the 2013 edition to the 2025 edition. We note that there are numerous other citations to the CRCP elsewhere in the Commission’s Rules of Practice and Procedure. This update is intended to incorporate by reference the most recent version of the CRCP rules available at the time this rulemaking will conclude, but we are aware that such an update may bring with it broader ramifications throughout the existing rules. We welcome comments on whether to include a reference to the most recent version of the CRCP rules while being mindful of the requirements of § 24-4-103(12.5), C.R.S., addressing incorporation by reference, and whether this is an issue better addressed through a more targeted rulemaking. This rulemaking will continue to be focused on implementation of SB 21-272. If updates to the CRCP warrant further, specific consideration, including throughout the remainder of the Rules of Practice and Procedure, commenters are encouraged to opine on whether this update should be considered through a separate rulemaking that can include other similar clean up and updates of the Commission’s rules.

2. Rule 1006 – Director

31. The amendments to Rule 1006 seek to clarify the duties of the Director of the Public Utilities Commission. The Director implements policies, procedures, and other activities necessary to carry out rules promulgated by the Commission, consistent with statute, including without limitation §§ 40-2-103, 40-2-104, and 40-2-109, C.R.S. This includes, for example, implementing policies effectuated by the rules proposed herein.

32. As emphasized above, these policies include many that further our goals across the Commission, including improved communications and accessibility of hearings, language access, and opportunities for community engagement and education. The Director, as discussed in the Capstone Report, will continue to update these policies and conduct educational and other outreach.¹¹ While the Director does not decide litigated or administrative proceedings, she manages the functions of the Commission, hiring staff as outlined in statute.¹² We anticipate that policy updates will necessarily be updated concurrent with these rule revisions, and going forward, will be revised consistent with any final rules adopted.

3. Rule 1007 – Commission Staff

33. The proposed addition to Rule 1007 adds language clarifying that, once members of the Commission have been designated as trial staff in a given proceeding those members of trial staff act independently and do not serve in advisory capacity. Notably, this is not intended to prohibit education and outreach to trial staff generally. Rather, trial staff may, as consistent with the Commission’s rules and professional codes of conduct, coordinate with various staff at the Commission in other contexts when appropriate.

4. Rule 1008 – Utility Language Accessibility

34. Rule 1008 is amended to promote language accessibility among regulated entities. This includes requiring entities regulated by the Commission to provide all customer notices and forms required by Commission rules in at least English and Spanish, with an option for customers to request that notices and forms be provided in other languages.

¹¹ Capstone Report at pp. 18-19.

¹² Pursuant to § 40-2-103, C.R.S., the Director’s duties are to “manage the operations of the agency in order to carry out the public utilities law, to carry out and implement policies, procedures, and decisions made by the commission, and to meet the requirements of the commission concerning any matters within the authority of a type 1 entity, as defined in section 24-1-105.”

35. We welcome comments on whether the proposed rule's inclusion of "other regulated entities as ordered by the Commission" is overly broad. The intent is to require utilities to adopt a public language policy that includes, at a minimum, English and Spanish, to promote transparency and accessibility for Colorado residents. However, we recognize that this requirement may impose a burden on smaller regulated entities (*e.g.*, transportation carriers), and that "reasonable costs" may vary depending on the complexity and expense of certain language translations.

36. As proposed, Rule 1008(b) requires utilities to create and maintain a publicly available policy regarding language accessibility for customer notices. We invite comments on whether further clarification is needed regarding what aspects of these policies should be made public, and how the requirement can be implemented in a way that is both useful to customers and not unduly burdensome for utilities.

37. Additionally, and as noted above, the Commission, through its Director and accompanying management and in conjunction with ongoing efforts with the Department of Regulatory Agencies, is in the process of updating its internal language accessibility policies. Rule 1008 is proposed and focused on regulated entities and processes before the Commission. While our rules focus on the proceedings themselves, we recognize that the management aspects of accessibility are equally important, including updates that can be ongoing to the Commission's websites and outreach for specific proceedings.

5. Rule 1009 – Community Compensation

38. Proposed Rule 1009 gives the Director of the Commission the discretion to implement a policy regarding the use of community compensation, consistent with

§ 40-2-127.2(8)(a)(VII), C.R.S.¹³ In accordance with the statute, community compensation may be provided to compensate individuals or representatives from disproportionately impacted communities who participate in non-adjudicated proceedings. Such participation includes activities like focus groups, educational events, and rulemakings. We propose this rule to explicitly delegate the processes here to the Director, who can more easily assist and facilitate community engagement in non-litigated proceedings and processes. We welcome comments on this rule and whether additional language is needed to effectuate the statute.

39. Notably, the policies to be implemented regarding community compensation are separate and distinct from the concept of intervenor compensation, which was raised and discussed in Proceeding No. 22M-0171ALL and documented in the Capstone Report.¹⁴

40. As noted in the Capstone Report, and raised in party comments throughout the proceeding, Colorado's current statutory scheme, found at § 40-6.5-105, C.R.S.,¹⁵ does not set requirements that parties must meet to be eligible for intervenor compensation. Rather, the statute restricts the Commission's ability to compensate intervenors in matters where the Office of the Utility Consumer Advocate ("UCA") has also intervened. For example, if UCA has intervened in

¹³ "The commission shall ... [c]onduct multilingual and culturally relevant outreach to engage, educate, and solicit input from representatives from disproportionately impacted communities, in accordance with section 40-2-108, and consider additional strategies as necessary to ensure robust participation by members of disproportionately impacted communities in any rule-making related to inclusive community solar. The commission shall consider a process to compensate individuals who participate in the outreach for their participation, at a level determined appropriate by the commission."

¹⁴ Capstone Report at pp. 29-30.

¹⁵ "If the office [of the Utility Consumer Advocate] intervenes and there are other intervenors in proceedings before the commission, the determination of said commission with regard to the payment of expenses of intervenors, other than the office, and the amounts thereof shall be based on the following considerations: (a) Any reimbursements may be awarded only for expenses related to issues not substantially addressed by the office; (b) The testimony and participation of other intervenors must have addressed issues of concern to the general body of users or consumers concerning, directly or indirectly, rates or charges; (c) The testimony and participation of other intervenors must have materially assisted the commission in rendering its decision; (d) The expenses of other intervenors must be reasonable in amount; (e) The testimony and participation of other intervenors must be of significant quality; (f) The participation of other intervenors must be active during the proceeding and not merely an appearance for purposes of establishing legal standing; and (g) The payment of expenses of other intervenors who are in direct competition with a public utility involved in proceedings before the commission is prohibited."

a proceeding, “[a]ny reimbursements may be awarded only for expenses related to issues not substantially addressed by the [UCA].”¹⁶ Given that UCA is a frequent intervenor in the Commission’s proceedings, this and other considerations stated in statute, may restrict the Commission’s ability to effectively implement an intervenor compensation program.

41. Notably, the processes outlined in statute require consideration of UCA’s advocacy, and are awarded, if at all, at the end of a proceeding. This process is in contradiction with many of the concerns raised in the pre-rulemaking where community intervenors may be seeking compensation before a proceeding begins to support their advocacy. However, as the Capstone Report also pointed out, some commenters raised concerns that any intervenor compensation prior to a litigated proceeding would protract litigation further and may be unworkable.¹⁷

42. This contrasts with Oregon’s current law, for example, that defines the types of organizations that can receive financial assistance through its intervenor compensation programs. Several parties pointed to Oregon as an example of statutory language that would benefit Colorado and assist in implementing an intervenor compensation program. Currently, Oregon Revised Statute 757.052 explicitly defines the types of organizations eligible for intervenor compensation as those representing: (a) the broad interests of customers, (b) the interests of low-income residential customers, or (c) the interests of residential customers that are members of environmental justice communities.

43. While we appreciate the participants’ comments and insights regarding intervenor compensation in Proceeding No. 22M-0171ALL, we do not propose rules for intervenor compensation at this time and welcome comments on a prospective rule to be considered in a

¹⁶ *Id.*

¹⁷ Capstone Report at pp. 29-30.

separate rulemaking. We remain intrigued by Oregon’s model but acknowledge the restrictions imposed by our current statutory scheme and the limitations we face without having similar statutory language. We therefore welcome comments on the topic of intervenor compensation, including whether participants in this rulemaking propose rules despite the current statute, or whether statutory amendments would be best to appropriately address intervenor compensation concerns and direct funding.

44. Our proposed rule regarding community compensation aims to avoid running afoul of the existing intervenor compensation paradigm prescribed by statute, the appearance of impartiality or bias in litigated proceedings where there are opposing interests, and encouraging or otherwise condoning the unauthorized practice of law.¹⁸ At the same time, it aims to facilitate robust non-adjudicated participation in processes where intervention and legal representation is not necessary.

6. Rules 1104 and 1105 – Personal Information, Collection & Disclosure

45. Upon review of the Personal Information rules, we found the equity interests espoused in the Capstone Report to be present in their current form. The additions to Rules 1104 and 1105 are therefore minor and intended to ensure the collection of such information is equitable. We welcome comments on how these rules can be further improved.

46. Additionally, the possessive pronouns in this rule, as well as throughout the rest of the Rules of Practice and Procedure, have been edited to be more inclusive when referring to a customer or individual.

¹⁸ The Commission is not allowed to permit the unauthorized practice of law in its proceedings. *See e.g., Denver Bar Ass’n b. Pub. Utils. Comm’n*, 391 P.2d 467, 471 (Colo. 1964) (“[T]he Commission with its rule-making power, does not in any way have the prerogative of superseding the exclusive power of the judiciary, ultimately residing in this Court, to determine what is or is not the practice of law and to restrict such practice to persons licensed by this Court to serve as lawyers.”).

7. Rule 1106 – Prohibited Communications - Generally

47. The additions to Rule 1106 clarify that Commission staff cannot act as conduits of communication when that communication would violate Rule 1106 had it occurred directly.

48. While this addition is intended as a clarification of prohibited *ex parte* communications, not all *ex parte* communications are prohibited, consistent with Rule 1110. This rule is intended to outline only those prohibited direct communications, and not to imply that *all* communications—including in administrative or other non-adjudicated proceedings—are inappropriate. For example, direct communications in a rulemaking proceeding are always permitted; however, the record must reflect that discussion as any documented discussion not in the record cannot be relied upon.

49. While we are bound by the provisions and objectives contained in § 40-6-122, C.R.S., and always considering the potential appearance of impropriety per § 40-6-123, C.R.S., there are always allowable communications in certain circumstances. While the proposed rule itself may not have significant revisions, we welcome comments on how the Commission can better clarify or inform the public about appropriate communications, including with Commissioners, advisors, and staff.

8. Rule 1111 – Permit, but Disclose Process

50. Consistent with the amendments to Rule 1106 above, the amendments to this rule are intended to remove confusion and opacity regarding *ex parte* communications. Accordingly, we propose to remove “*ex parte*” where it may cause confusion regarding prohibited versus permitted communications. As discussed above, and consistent with Rule 1110, not all *ex parte* communications are prohibited. For example, direct communications that occur in educational programs or conferences are permitted.

51. Generally, permit but disclose processes are used in administrative proceedings (*i.e.*, a non-adjudicatory proceedings) where it may be helpful for interested persons to have meetings with the Commissioners, which may also include Staff, in order to present information directly. Interested persons may petition the Commission to present on a specified topic related to the proceeding at hand. Any such meetings must relate to matters being reviewed in the specific proceeding and cannot concern any matter pending before the Commission in another proceeding. After the Commission approves a meeting and the meeting is held, the person who requested the meeting must file a letter disclosing the meeting and provide the required information per Rule 1111(c). That letter will then become part of the record in the proceeding and thus may be relied on in a final decision.

52. The requirement in administrative proceedings that the record must reflect any relied-on information, rather than any prohibition on discussion, may be the root of some concerns raised in prior workshops. For example, commenters that want to have a private audience with a decision maker in a rulemaking may find that the discussion itself is not prohibited, but that any comments made during that meeting are not documented in the record such that other participants can comment and respond. While we do not think a “permit but disclose” process is needed, the commenter may need to include their comments in writing if they intend for the decision maker to rely in any way on the statements made in a final decision. We therefore do not make significant changes to the permit but disclose rule, but raise that prohibited communications and allowed communications are different concerns than having a fully robust record. In rulemakings especially, while direct communications are not prohibited, any final decision must be supported by the record.

53. We invite comments on more clarity in the rules to ensure that members of the public can better understand appropriate engagement with the Commission and its staff, and better assist in supporting the record for participant consideration.

9. Rule 1207 – Utility Notice

54. Rule 1207(b) is proposed to institute heightened notice requirements for utilities in equity impact proceedings. Specifically, if one or more disproportionately impacted community is affected by the filing, the utility must: (A) provide a plain language summary of the issues and the range of potential impacts of the contemplated filing, (B) translate its notice into appropriate language other than English if a disproportionately impacted community is identified as linguistically isolated (using EnviroScreen), and (C) file in the proceeding its proposed notice plan for Commission review and approval (or, if necessary, approval with modification). The filing of a proposed notice plan for equity impact proceedings can be similar to the Commission's existing protocols for requests for alternative form of notice pursuant to § 40-3-104(1)(c)(I)(E), C.R.S., and current Rule 1207(b).

55. These additions align with the Capstone Report's recommendation that the Commission adopt heightened notice requirements for equity impact proceedings¹⁹ and also aim to provide utilities and other participating parties with clarity for when such heightened notice requirements are required.

10. Rule 1210 – Tariffs and Advice Letters

56. Rule 1210(c)(II)(E)(iii) is proposed to add that advice letters in equity impact proceedings shall include a brief description discussing, in addition to the existing descriptions of

¹⁹ Capstone Report at pp. 15-16, 28-29.

the tariff or tariff changes, whether and how disproportionately impacted communities or income-qualified utility customers may be affected.

57. Additionally, we note that the language accessibility provisions included in proposed Rule 1008 would apply to any required advice letter notice as well.

11. Rule 1302 – Formal Complaints and Show Cause Proceedings

58. The additions to Rule 1302 add language that allows the Commission to consider whether an alleged violator, who is the subject of a formal complaint, lives in a disproportionately impacted community or is an income qualified individual and whether the violation impacted a disproportionately impacted community or individuals living in a disproportionately impacted community. The Commission may consider these factors when imposing a civil penalty against the violator, as provided by law, taking into account the individual's ability to pay the civil penalty and whether there was an impact to a disproportionately impacted community.

59. Additionally, we propose that in complaint proceedings where discontinuance of service is an issue, the Commission may issue an interim decision requiring the utility to provide service pending a hearing if the customer provides information addressing whether the discontinuance of service aggravates an existing medical situation or creates a medical emergency.

12. Rule 1303 – Applications

60. The minor addition to Rule 1303(c) makes clear that applications filed in equity impact proceedings, as defined in proposed Rules 1600 through 1604, must meet the requirements of Rule 1604(b) in addition to the existing requirements for applications contained in Rule 1303.

61. The proposed addition to Rule 1303(d)(III) allows the Commission to consider the application's impacts on disproportionately impacted communities and income-qualified customers prior to deeming the application complete.

62. Relatedly, because the Commission may, in certain proceedings, have to consider additional equity considerations before deeming an application complete, the proposed addition to Rule 1303(d)(IV) extends the auto-deem period from 15 to 20 days. We propose the additional five days before an application auto-deems so that the Commission has adequate time to properly consider equity and other considerations before an application auto-deems.

13. Rule 1306 – Rulemaking Proceedings

63. The proposed amendments and additions to Rule 1306 are intended to clarify the Commission’s processes when initiating a rulemaking, including issuing a NOPR to entities and persons that may be affected by the rule change.

64. Rule 1306(b)(I) proposes a process by which the Commission may ensure potentially affected disproportionately impacted communities, or individuals or entities representing such communities, are provided notice through the Commission’s existing E-Filings System. Specifically, this rule is intended to work in concert with updated improvements on the Commission’s public-facing website, by which a person or entity can subscribe to receive notifications of rulemakings in specified affected industry areas. As contemplated, a representative of a disproportionately impacted community would be able to register to receive notifications, by industry area, for proposed rulemakings that may potentially affect their community. The aim here is to increase accessibility to potentially affected parties that provide appropriate contact information to better ensure that potentially interested persons, including those in potentially affected disproportionately impacted communities, receive timely notice of all proposed rulemakings that may affect their communities.

65. Rule 1306(b)(II) establishes a process the Commission will commence if a rulemaking introduces or modifies retail customer programs, or the Commission otherwise

determines the process is necessary. If such a determination is made, the Commission will identify whether the proposed rules will impact disproportionately impacted communities and income-qualified utility customers using the EnviroScreen tool, as defined in Rule 1004(h), or other tools as appropriate. This rule is proposed in accordance with the legislative directive contained in § 40-2-108(c)(II), C.R.S.²⁰

66. The proposed rule includes that the Commission will address, either through the NOPR or a subsequent procedural order in the proceeding, how it plans to meet the requirements of hosting informational meetings, workshops, and public comment hearings that solicit input from disproportionately impacted communities pursuant to § 40-2-108(3)(c)(II). In its discretion, the Commission may direct Commission Staff to host one or more informational meetings that provide plain-language educational information explaining the intended outcome of the proposed rules to disproportionately impacted communities. We propose the informational meetings for the purpose of educating and informing the public on a given rulemaking, and the meetings will not be considered part of the rulemaking record.

67. The Commission would also structure public comment hearings so as to solicit input from disproportionately impacted communities, including consideration of various factors such as notice, timing, language accessibility, geographic location, and access to technology. This proposed rule is intended to allow for flexibility in each rulemaking proceeding, as needed, but also sets an expectation for participants, Staff, and the Commission.

²⁰ § 40-2-108(c)(II) states that “[w]hen making decisions relating to retail customer programs, the commission shall host informational meetings, workshops, and hearings that invite input from disproportionately impacted communities and shall ensure, to the extent reasonably possible, that such programs, including any associated incentives and other relevant investments, include floor expenditures, set aside as equity budgets, to ensure that low-income customers and disproportionately impacted communities will have at least proportionate access to the benefits of such programs, incentives, and investments.”

68. Rule 1306(b)(III) is added to clarify the Director of the Commission, at the Director's discretion, may order that a transcript of all public comments made during a public comment hearing be filed into a rulemaking proceeding. Additionally, the Rule highlights that any interested person may order a transcript of public comments to be filed in a rulemaking proceeding.

69. These additions to the Commission's rulemaking processes are intended to align with the recommendations from the Capstone Report, which suggested, among other things, that the Commission require informational meetings, workshops, and public comment hearings specifically targeted to disproportionately impacted communities for at least those rulemakings involving retail customer programs, and more broadly for rulemakings that are determined to be equity impact proceedings.²¹

70. Additionally, in Rule 1306(b)(IV), we add an encouragement for public commenters in a rulemaking proceeding to file comments within ten days after the conclusion of the public comment hearing. While we will still accept and consider comments at any time during a rulemaking proceeding, filing within ten days of the public comment hearing is intended to provide better guidance on timing that may best assist the Commission in timely incorporating the public comments provided into consideration of the proposed rules. Orders in specific proceedings could of course set timelines and expectations in addition to the proposed, generally applicable rules.

14. Rule 1401 – Intervention

71. The Commission has an overall interest in having a wide breadth of intervenors participating in adjudicatory proceedings. Certain limitations are imposed on the Commission through statutes and case law that the Commission is unable to change through its rules. In most

²¹ Capstone Report at p. 39.

circumstances, legal representation is required to present factual evidence before the Commission and the Commission cannot authorize individuals who are not attorneys to practice law.²² While the Commission may, in limited circumstances, allow an exception for *pro se* representations,²³ this is typically limited to non-adjudicatory matters or in adjudicatory matters where the *pro se* individual is representing only that individual's interests.²⁴ As noted in the Capstone Report, these restrictions are also the reason why the Commission cannot create a separate "policy amicus" status in its rules.²⁵

72. Given these complexities, statutory changes may be necessary to clarify whether UCA, which currently represents state-wide ratepayer interests, or other entities that can provide more local community representation are best situated to represent disproportionately impacted communities.²⁶ The proposed changes to Rule 1401 therefore attempt to navigate this complex terrain while also responding to stakeholders' concerns addressed in the Capstone Report.²⁷

73. The proposed intervention rule updates are therefore intended to clarify the interests represented in a given proceeding, including whether a prospective party represents a

²² *E.g., Denver Bar Ass'n b. Pub. Utils. Comm'n*, 391 P.2d 467, 471 (Colo. 1964) ("From what has been said we conclude that the creature of the legislature, the Commission with its rule-making power, does not in any way have the prerogative of superseding the exclusive power of the judiciary, ultimately residing in this Court, to determine what is or is not the practice of law and to restrict such practice to persons licensed by this Court to serve as lawyers.").

²³ Section 40-6-109(7) C.R.S., states that "[t]he commission may by general rule or regulation provide for appearances *pro se* by, or for representation by authorized officers or regular employees of, the commission's staff, corporations, partnerships, limited liability companies, sole proprietorships, and other legal entities in certain matters before the commission."

²⁴ According to current law, an individual or entity who is represented by counsel may be prohibited from intervening in a proceeding if their interest is already adequately represented by existing parties to the case, including UCA, which represents the interests of residential, small business, and agricultural ratepayers. § 40-6.5-104(1), C.R.S.

²⁵ Capstone Report at p. 41. The Commission rejected a similar proposal in Proceeding No. 19R-0483ALL given current statutory requirements.

²⁶ Notably, communities likely need legal representation to intervene in proceedings - we recognize that this alone may create a hurdle for some disproportionately impacted communities. As discussed above with regard to community compensation, current state statutes include barriers to intervenor compensation. We welcome comments on whether statutory updates would both benefit clarifying local representation and compensation where legal representation may be required for intervention.

²⁷ See Capstone Report at pp. 41-42.

disproportionately impacted community or has performed outreach to a disproportionately impacted community. This will assist the Commission in considering not only differentiating interests represented in a particular proceeding, but also better inform the Commission with regard to whether equity or disproportionately impacted community interests have been adequately addressed or whether further process or direction will be needed.

74. Rule 1401(e), for example, proposes that motions to permissively intervene may include a description of any specific outreach to disproportionately impacted communities and income-qualified utility customers regarding the proceeding and how that outreach shaped the positions and interests of the intervening party. While this does not mandate that outreach be performed in all proceedings, entities are strongly encouraged to describe such outreach to assist the Commission in ensuring that such views are included and considered in the proceeding.

75. However, in equity impact proceedings, permissive interventions must include specifically if any disproportionately impacted communities were, or are intended to be, consulted throughout the course of the proceeding and whether the intervenor purports to represent a disproportionately impacted community.

76. These additions are proposed so that the Commission can better weigh and consider outreach, including outreach performed on behalf of the intervening parties, as well as determine whether additional outreach, other intervenors, or any other additional process is required regarding disproportionately impacted communities in equity impact proceedings.

15. Rule 1403 – Uncontested (Modified) Proceedings

77. Rule 1403(b) is added so that uncontested equity impact proceedings, filed with the Commission pursuant to proposed Rule 1600, necessarily include the information regarding equity and potential impacts on disproportionately impacted communities laid out in Rules 1600 through

1604. This addition is intended to ensure that equity is still properly considered even in uncontested proceedings.

16. Rule 1408 – Settlements

78. Rule 1408(b) is proposed to clarify that settlement agreements filed in equity impact proceedings must meet the requirements in proposed Rule 1604(f), which requires a settlement agreement or settlement testimony to address how the settlement advances equity to disproportionately impacted communities, and specifically how the equity concerns raised in the initial filing, in any answer testimony filed, and in public comments received, are addressed.

79. As with any settlement agreement filed in a proceeding pursuant to Rule 1408, the proponent of the settlement agreement in an equity impact proceeding bears the burden of proving that the settlement is in the public interest.

17. Rule 1500 – Burden of Proof

80. Rule 1500(b) is proposed to clarify that, in an equity impact proceeding, the burden of demonstrating that the proposed actions do not increase burdens on disproportionately impacted communities falls on the filing utility.

81. We propose this addition for the burden of proof because, in most matters initiated as equity impact proceedings, it will be the utility that has access to much of the pertinent information necessary to consider equity and potential impacts on disproportionately impacted communities. We do not intend to impose any onerous responsibilities on the utility, but rather see this as the most efficient and productive means to gathering relevant information in an equity impact proceeding.

18. Rule 1509 – Public, Academic, or Policy Comments

82. Rule 1509(e) is proposed to encourage persons submitting public comments to submit the comments as soon as possible prior to deliberations. While, as mentioned above, the Commission will accept public comments at any time during a proceeding, submitting comments prior to deliberations will help ensure that the comments are properly considered prior to a decision being issued.

83. Additionally, Rule 1509(e) is amended to make clear that the Commission will accept public comments made via any audio recording, as opposed to only voicemail. We welcome feedback and suggestions on how to make the public comment submission process more accessible.

19. Rules 1600 through 1604 – Equity Impact Proceedings

84. As stated in proposed Rule 1601, the purpose of these rules is to establish a framework for ensuring that certain proceedings before the Commission—namely, equity impact proceedings—include consideration of how best to incorporate equity, minimize harm and prioritize benefits to disproportionately impacted communities, and address historical inequalities, pursuant to § 40-2-108(3)(b), C.R.S.²⁸

85. A definition of “equity” is proposed, in line with Staff recommendations and stakeholder comments described in the Capstone Report,²⁹ and includes a combination of various terms, including “equitable distribution,” “distributional equity,” “procedural equity,” and “restorative equity.” Each of the terms are, in turn, defined as part of the definition of “equity.” This approach may be beneficial for several reasons, including allowing the Commission and

²⁸ “The commission shall promulgate rules requiring that the commission, in all of its work including its review of all filings and its determination of all adjudications, consider how best to provide equity, minimize impacts, and prioritize benefits to disproportionately impacted communities and address historical inequalities.”

²⁹ Capstone Report at pp. 5, 11, 14.

parties flexibility in measuring and achieving equity in various contexts. As the Capstone Report recognized, equity can imply different concepts in various circumstances and can be measured and achieved in different ways depending on the circumstances. The definitions proposed here give parties and participants the flexibility to clarify and discuss equity, depending on the specific concerns and circumstances of a given proceeding, while at the same time allowing them to differentiate the concept based on clear terminology in the proposed rule. This flexible approach would provide the benefit of distinguishing between equity and equality, consistent with stakeholders' recommendations described in the Capstone Report, while not overly constraining the specific applications.³⁰

86. The designation of proceedings as “equity impact proceedings” was one of the major rulemaking recommendations in the Capstone Report.³¹ In line with Staff’s recommendations, equity impact proceedings are proposed to include the following: (I) electric resource plans per Rule 3600, 4 CCR 723-3, *et seq.*; (II) distribution system plans per Rule 3538, 4 CCR 723-3; (III) gas infrastructure plans per Rule 4550, 4 CCR 723-4, *et seq.*; (IV) applications addressing retail customer programs and/or programs for income-qualified customers; (V) applications or advice letter filings to modify base rates as defined pursuant to § 40-3-102.5(1)(d)(I), C.R.S.; (VI) applications for certificates of public convenience and necessity filed pursuant to § 40-5-101, C.R.S., that include electric or gas infrastructure proposed to be located in disproportionately impacted communities; (VII) applications for approval of an emergency telephone charge in excess of the threshold established by the Commission filed pursuant to Rule 2147, 4 CCR 723-2; and (VIII) any other proceeding determined by the

³⁰ *Id.* at p. 14.

³¹ *See id.* at p. 4.

Commission to be an equity impact proceeding or where disproportionately impacted communities are specifically addressed pursuant to statute or rule.

87. These proposed initial rules focus primarily on energy proceedings (apart from the telecommunications proceeding listed above), while at the same time allowing the Commission discretion to determine other proceedings, including non-energy matters, on a case-by-case basis. As described in the Capstone Report, while issues of equity are relevant in all cases before the Commission, not all proceedings will require the complex and robust analyses proposed in these rules.³² This approach is intended to avoid regulatory burdens and costs for proceedings that do not need these additional processes because equitable considerations are already addressed in context. Given that the proposed rules may impose significant obligations upon a utility in equity impact proceedings, this more targeted approach, with a list of baseline proceedings while allowing for additional flexibility, aims to focus on energy proceedings that are most likely to affect disproportionately impacted communities, which the Commission can apply to any other proceeding as is appropriate.

88. Rule 1604 lists the requirements for utilities in equity impact proceedings. Generally, the proposed rules establish outreach and filing requirements for the utility on the potential impacts of the proceeding on disproportionately impacted communities. While this proactively provided information will assist engagement for all parties and the public in a given proceeding, we recognize that the regulated utility may be the best-situated entity to provide much of the pertinent information needed to facilitate meaningful discussion and engagement with equity issues throughout the proceeding.

³² *Id.* at pp. 15-16.

89. More specifically, and in line with the recommendations in the Capstone Report,³³ the proposed requirements include, among other things, pre-filing identification and outreach to disproportionately impacted communities that may be affected by the proceeding, a report detailing the outreach efforts, heightened notice requirements, and an analysis of the potential burdens and benefits on the identified communities compared to the utility's customers generally.

90. Additionally, a proposed procedural schedule in an equity impact proceeding should address how the schedule will promote the meaningful involvement of disproportionately impacted communities and whether a public comment hearing should be held. The utility's rebuttal testimony must then address the public comments received during the proceedings, as well as the utility's response to the comments.

91. Similarly, the Commission's final decision will include a summary of the utility's and other parties' efforts to engage with the public, and specifically with disproportionately impacted communities, and a description of how its decision addresses equitable outcomes. These proposed additions, in conjunction with the proposed amendments to the Commission's intervenor filing requirements in Rule 1401(e), are intended to provide the Commission with a clear record and better insights into the utility's and parties' testimony and arguments, while allowing for a meaningful focus on equity impacts and considerations of disproportionately impacted communities.

E. Conclusion

92. Through this NOPR, the Commission solicits comments from interested persons on the new rules proposed in this Decision and its attachments. Interested persons may file written comments including data, views, and arguments into this Proceeding for consideration.

³³ See *id.* at p. 15.

The Commission also welcomes submission of alternative proposed rules, including both consensus proposals joined by multiple rulemaking participants and individual proposals. Participants are encouraged to provide redlines of any specific proposed rule changes.

93. The proposed rules in legislative (*i.e.*, strikeout/redline) format (Attachment A) and final format (Attachment B) are available through the Commission's E-filing system at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0468ALL.

94. The Commission refers this matter to an ALJ for a recommended decision. In addition to submitting written comments, participants will have an opportunity to present comments orally at the hearing, unless the ALJ deems oral presentation unnecessary. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

95. Initial written comments on the proposed rule changes are requested by December 23, 2025. Any person wishing to file comments responding to the initial comments is requested to file such comments by January 27, 2026. These deadlines are set so that the comments and responses may be considered at the public hearing conducted by the ALJ on February 17, 2025, nonetheless, persons may file written comments into this Proceeding at any time.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking, including Attachment A and Attachment B attached hereto, shall be filed with the Colorado Secretary of State for publication in the November 25, 2025 edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge for issuance of a Recommended Decision.

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

DATE: February 17, 2026

TIME: 11:00 a.m.

PLACE: By video conference using Zoom at a link provided in the calendar of events posted on the Commission's website: <https://puc.colorado.gov/>

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

5. Interested persons may file written comments in this matter. The Commission requests that initial written comments be submitted no later than December 23, 2025, and any written comments responsive to the initial comments be submitted no later than January 27, 2026. The Commission will consider all submissions, whether oral or written. The Commission prefers that comments be filed into this Proceeding using the Commission's E-Filings System at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

6. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 29, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners