

City Attorney Briefing

2022 Open Access Transmission Tariff Hearing

June 28, 2022

The City Council's authority to establish rates, charges and regulations for utility services is contained within the Colorado Constitution, Colorado Statutes, the Colorado Springs City Charter, the City Code and the City Council's Rules and Procedures.

RATE-SETTING STANDARDS

Article 20 of the Colorado Constitution provides the City Council with the authority to establish electric rates, charges and regulations. Article 6 of the City Charter provides authority to operate the electric system.

The power to establish tariffs for electric transmission service lies exclusively with the City Council. City Code § 12.1.108(E) directs the City Council to establish rates and terms for electric service that are just, reasonable, sufficient and not unduly discriminatory. Under Colorado Revised Statute § 40-3.5-102, the City Council's rate-setting decisions for electric customers outside of municipal limits are not subject to prior review by the Colorado Public Utilities Commission if the rates, charges and regulations are identical to those imposed on municipal customers.

CITY COUNCIL'S ROLE

Part 4 of the Rules and Procedures of City Council, together with § 12.1.108 of the City Code, set forth the process that governs the City Council's hearing today. In setting regulations for electric service offered under the Open Access Transmission Tariff, City Council is acting in a manner analogous to a quasi-judicial role. Unlike actions taken in your legislative role, such as adoption of an ordinance, your decision to adopt revisions to utility tariffs must be based on the record before you. The written materials you have received, including the written summary and the tariff sheets in red and black line, as well as the oral presentations and testimony at this public hearing, will constitute the record of the proceeding.

Today, you will hear the 2022 Open Access Transmission Tariff Hearing, which involves proposed revisions to this tariff.

At the conclusion of the public hearing, I will assist you in determining what issues you have identified and ask for your preliminary decision as to those issues. The draft decisions and orders for these separate proposals will be reviewed at your Work Session Meeting of July 11, 2022. You will be asked to adopt resolutions at your Regular Meeting of July 12, 2022, in order to implement the rate proposals effective August 1, 2022, or otherwise noted.

CITY ATTORNEY EX PARTE POLL

At this point in the proceedings, if City Council members have received any Ex Parte communications, I would ask that you indicate those communications for the record.

(THE CITY COUNCIL MEMBERS MAY GIVE YOU COPIES, WHICH WILL BE PLACED INTO THE RECORD AFTER THE HEARING.)

UTILITIES' PRESENTATION BEGINS