

City Attorney Briefing

2019 Open Access Transmission Tariff Hearing

April 9, 2019

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 and charges are identical to those imposed on municipal residents.

Typically, rates are considered just and reasonable if the rates balance:

- 1) the utility's interest in the recovery of legitimately incurred costs and a reasonable return on its investment dedicated to utility service, and
- 2) the customers' interest in being assessed charges that approximate the costs associated with the provision of utility service.

QUASI-JUDICIAL 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 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, as well as the oral presentations and testimony at this public hearing, will constitute the record of the proceeding.

Today, you will hear the 2019 Open Access Transmission Tariff Hearing, which involves revisions to the Open Access Transmission Tariff.

At this point in the rate proceeding, I would request that the City Council move to suspend Part 4-1(C) of the Rules and Procedures of City Council, Post-Hearing Procedures, for this rate hearing, which will dispense with the need for a decision and order and which will allow the City Council to immediately consider the tariff proposal and revisions at the conclusion of this public hearing for a May 1, 2019 implementation.

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