

88 Subsection (3)(f), the office shall determine whether the person described in Subsection (3)(c)
89 has demonstrated in the submitted agreements for in-state merchant generation that the person
90 can fulfill the present and future needs, whether in a proposed build or by future upgrades as
91 described in the agreements, calculated in accordance with Subsection (3)(e)(ii).

92 (h) If a person has demonstrated that the proposed merchant electric transmission line
93 can fulfill present and future needs as calculated in Subsection (3)(e)(ii), the office:

94 (i) shall issue to the person described in Subsection (3)(c) a certificate of in-state need;
95 and

96 (ii) may charge the person a fee, in accordance with Section [63J-1-504](#), for the cost of
97 reviewing an agreement described in Subsection (3)(f) or an expression of need described in
98 Subsection (3)(e)(i).

99 (i) A certificate of in-state need issued in accordance with this Subsection (3) is valid
100 only to the extent that a transmission agreement for in-state merchant generation submitted
101 under Subsection (3)(f) continues to reflect the agreements of the parties.

102 (4) Subsection (3) does not apply to a land use application for a conditional use for a
103 transmission line that is, or is proposed to be, owned or operated by a project entity as defined
104 in Section [11-13-103](#).

104a **§→ (5) "Subsection (3) may not be interpreted to:**

104b **(a) create an obligation of a merchant electric transmission line to pay for, or construct**
104c **any portion of, the transmission line on behalf of an in-state merchant generator; or**

104d **(b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory**
104e **Commission rules and regulations applicable to a commercial transmission agreement,**
104f **including agreements or terms of agreements as to cost, terms, transmission capacity, or key**
104g **rates. ←§**