

**54-17-404 Order to proceed.**

- (1)
  - (a) In the event of a change in circumstances or projected costs, an energy utility may seek a commission review and determination of whether the energy utility should proceed with the implementation of an approved resource decision.
  - (b) In making a determination under this Subsection (1), the commission shall use the standards identified in Subsection 54-17-402(3)(b).
  - (c) Before making a determination under this Subsection (1) the commission:
    - (i) may hold a public hearing; and
    - (ii) shall provide an opportunity for public comment.
- (2) Unless the commission determines that additional time is warranted and is in the public interest, within 60 days of the day on which the energy utility files a request for commission review and determination under this section, the commission shall:
  - (a) issue an order:
    - (i) determining that the energy utility should proceed with the implementation of the resource decision;
    - (ii) making findings as to the total projected costs of the approved resource decision; and
    - (iii) stating the basis upon which the findings described in Subsection (2)(a)(ii) are made; or
  - (b) issue an order determining that the energy utility should not proceed with the implementation of the resource decision.
- (3) If the commission determines that the energy utility should proceed with the implementation of the approved resource decision, the commission shall, in a general rate case or other appropriate commission proceeding, include in the energy utility's retail rates the state's share of costs:
  - (a) relevant to that proceeding;
  - (b) incurred by the energy utility in implementing the approved resource decision; and
  - (c) up to the projected costs as specified in the commission's order issued under Subsection (2)(a).
- (4) If the commission determines that the energy utility should not proceed with the implementation of the approved resource decision, the commission shall, in a general rate case or other appropriate commission proceeding, include in the energy utility's retail rates the state's share of costs:
  - (a) relevant to that proceeding; and
  - (b) incurred by the energy utility in implementing the approved resource decision before issuance of a determination not to proceed, including any prudently incurred costs of terminating the approved resource decision.
- (5) A commission order under this section not to proceed with the implementation of a resource decision may not prejudice:
  - (a) the right of an energy utility to:
    - (i) continue to implement the resource decision; and
    - (ii) seek recovery of costs incurred after a determination not to proceed in a future rate proceeding; or
  - (b) the right of any other party to support or oppose the recovery sought under Subsection (5)(a)(ii).
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for the commission's review and determination on a request for an order to proceed under this section.

Amended by Chapter 382, 2008 General Session