

## **COLORADO DEPARTMENT OF REGULATORY AGENCIES**

### **Public Utilities Commission**

#### **4 CODE OF COLORADO REGULATIONS (CCR) 723-3**

##### **PART 3**

##### **RULES REGULATING ELECTRIC UTILITIES**

###### **3001. Definitions.**

The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise. In addition to the definitions here, the definitions found in the Public Utilities Law and Part 1 apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply. In the event of a conflict between these definitions and a definition in Part 1, these definitions shall apply.

- (a) "Advanced metering infrastructure" means an integrated system of smart electric utility meters and communication networks that enables two-way communication between an electric utility's data systems and the meter's internet protocol address and allows the electric utility to measure electricity usage and/or connect or disconnect service remotely.
- (b) "Affiliate" of a utility means a subsidiary of a utility, a parent corporation of a public utility, a joint venture organized as a separate corporation or partnership to the extent of the individual utility's involvement with the joint venture, a subsidiary of a parent corporation of a utility or where the utility or the parent corporation has a controlling interest over an entity.
- (c) "Aggregated data" means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) and/or the compilation of customer data of one or more customers from which all unique identifiers and personal information has been removed.
- (d) "Applicant for service" means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (e) "Base rate" means charges used to recover costs of utility infrastructure and operations, including a return on capital investment, not otherwise recovered through a utility rate adjustment mechanism.
- (f) "Basis point" means one-hundredth of a percentage point (100 basis points = one percent).
- (g) "Benefit of service" means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.

- (h) "Commission" means the Colorado Public Utilities Commission.
- (i) "Contracted agent" means any person that has contracted with a utility in compliance with rule 3030 to assist in the provision of regulated utility services (e.g., an affiliate or vendor).
- (j) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- (k) "Customer data" means customer-specific data or information, excluding personal information as defined in paragraph 1004(x), that is:
  - (I) collected from the electric meter by the utility and stored in its data systems (e.g., kWh, kW, voltage, VARs and power factor);
  - (II) combined with customer-specific energy usage information on bills issued to the customer for regulated utility service when not publicly or lawfully available to the general public; or
  - (III) about the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs.
- (l) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs including substation transformers that transform electricity to a distribution voltage and also includes other equipment within a transforming substation which is not integral to the circuitry of the utility's transmission system.
- (m) "Emergency or safety event or circumstance" means a manmade or natural emergency event or safety circumstance:
  - (I) that prevents utility staff from being able to safely travel to or work at a customer's residence or place of business for purposes of reconnecting or making necessary repairs prior to reconnecting utility service; or
  - (II) for which a utility has dispatched utility staff members to help respond to the emergency or safety event or circumstance and, due to the timing or number of utility staff dispatched, the utility lacks sufficient trained staff to reconnect or make necessary repairs prior to reconnecting utility service at a customer's residence or place of business; and
  - (III) includes a severe weather event that one or more reputable weather forecasting sources forecasts to occur in the following twenty-four hours and that is more likely than not to result in dangerous travel or on-site outdoor or indoor work conditions for individuals in the path of the weather event.
- (n) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.

- (o) "Energy storage system" means a commercially available technology that is capable of retaining energy, storing the energy for a period of time, and delivering the energy as electricity after storage by chemical, thermal, mechanical, or other means.
- (p) "Financial security" includes any stock, bond, note, or other evidence of indebtedness.
- (q) "Generation facility" means a power plant that converts a primary energy resource into electricity. Primary energy resources include, but are not limited to: nuclear resources, coal, natural gas, hydro, wind, solar, biomass, and geothermal.
- (r) "Heavy load" means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.
- (s) "Income qualified utility customer" or "low income customer" is a customer meeting the requirements of § 40-3-106(1)(d)(II), C.R.S.
- (t) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure.
- (u) "Light load" means approximately five to ten percent of the nameplate-rated capacity of a meter.
- (v) "Load" means the power consumed by an electric utility customer over time (measured in terms of either demand or energy or both).
- (w) "Local government" means any Colorado county, municipality, city and county, home rule city or town, home rule city and county, or city or town operating under a territorial charter.
- (x) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (y) "Main service terminal" means the point at which the utility's metering connections terminate.
- (z) "Major event" means an event as defined in and consistent with IEEE Standard Number 1366-2003, Guide for Electric Power Distribution Reliability Indices.
- (aa) "MVA" means mega-volt amperes and is the vector sum of the real power and the reactive power.
- (bb) "Non-standard customer data" means all customer data that are not standard customer data.
- (cc) "Output" means the energy and power produced by a generation system.
- (dd) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.
- (ee) "Powerline trail" means a multimodal trail that is: eight feet in width or wider; made of hard surface such as concrete or compacted gravel; used for recreational purposes or commuting in a manner

that does not involve a motor vehicle; and located in an existing transmission or future transmission corridor.

- (ff) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.
- (gg) "Property owner" means the legal owner of government record for a parcel of real property within the service territory of a utility. A utility may rely upon the records of a county clerk for the county within which a parcel of property is located to determine ownership of government record.
- (hh) "Qualifying communication" means one of the following methods of communicating with a utility customer about a possible upcoming disconnection of service:
  - (I) a physical visit to the customer's premises during which a utility representative speaks with the customer and provides the customer utility assistance information or, if the customer is not available to speak, leaves notice of proposed disconnection and utility assistance information for the customer's review; or
  - (II) a telephone call, text, or e-mail to the customer's last-known telephone number or email address in which:
    - (A) the utility representative provides the customer with notice of proposed disconnection and utility assistance information; and
    - (B) the utility representative either speaks directly with the customer over the telephone or the customer receives the utility representative's text or email.
- (ii) "Rate adjustment mechanism" or "rate rider" means a charge added to a utility bill to recover a specific cost that is not part of the base rate.
- (jj) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (kk) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission or contained in a tariff of the utility.
- (ll) "RFP" means request for proposals.
- (mm) "Rotating standard" means a portable meter used for testing service meters.
- (nn) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- (oo) "Service connection" is the location on the customer's premises/facilities at which a point of delivery of power between the utility and the customer is established. For example, in the case of a typical residential customer served from overhead secondary supply, this is the location at which the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.

- (pp) "Standard customer data" means customer data maintained by a utility in its systems in the ordinary course of business.
- (qq) "Test year" means a twelve-month period that is examined to determine a utility's costs of service in a rate case.
- (rr) "Third-party" means a person who is not the customer, an agent of the customer who has been designated by the customer with the utility and is acting of the customer's behalf, a regulated utility serving the customer, or a contracted agent, of the utility.
- (ss) "Transmission corridor" means a tract of land owned, occupied, or leased by a transmission provider as defined in § 33-45-102(11), C.R.S., or covered by an easement or right-of-way held by a transmission provider, where an electric transmission line is constructed, operated, or maintained at a voltage of 69 kilovolts or above.
- (tt) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility's transmission system.
- (uu) "Unique identifier" means a customer's name, mailing address, telephone number, or email address that is displayed on a bill.
- (vv) "Unregulated charges" means charges that are billed by a utility to a customer and that are not regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.
- (ww) "Utility assistance information" means information that a utility representative provides a customer informing the customer that the customer may contact 1-866-HEAT-HELP (1-866-432-8435) to determine if the customer qualifies for utility bill payment assistance.
- (xx) "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.
- (yy) "Utility service" or "service" means a service offering of a utility, which service offering is regulated by the Commission.
- (zz) "Whole building data" means the sum of the monthly electric use for either all meters at a building on a parcel or real property or all buildings on a parcel of real property.

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[indicates omission of unaffected rules]

**3403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.**

- (a) A utility shall process an application for utility service that is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a deposit prior to commencement of service. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- (b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.
- (c) If billing records are available for a customer who has received past service from the utility, the utility shall not require that person to make new or additional deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies.
- (d) A utility shall not require a deposit from an applicant for service who provides written documentation of a 12 consecutive month good -payment history from the utility from which that person received similar service. For purposes of this paragraph, the 12 consecutive months must have ended no earlier than 60 days prior to the date of the application for service.
- (e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program (LEAP) or in an income qualified program consistent with rule 3412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.
- (f) If a utility uses credit scoring to determine whether to require a deposit from an applicant for service or a customer, the utility shall have a tariff that describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit that triggers a deposit requirement.
- (g) If a utility uses credit scoring, prior payment history with the utility, or customer-provided prior payment history with a like utility as a criterion for establishing the need for a deposit, the utility shall include in its tariff the specific evaluation criteria that trigger the need for a deposit.
- (h) If a utility denies an application for service or requires a deposit as a condition of providing service, the utility immediately shall inform the applicant for service of the decision and shall provide, within three business days, a written explanation to the applicant for service stating the reasons why the application for service has been denied or a deposit is required.
- (i) No utility shall require any surety other than either a deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a deposit. In no event shall the furnishing of utility services or extension of utility facilities, or any indebtedness in connection therewith, result in a lien, mortgage, or other interest in any real or personal property of the customer unless such indebtedness has been reduced to a judgment. Should the guarantor terminate service or terminate the third party guarantee before the customer has established a satisfactory payment record for 12 consecutive months, the utility, applying the criteria contained in its tariffs, may require a deposit or a new third party guarantor.

- (j) The total deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution, or guarantee in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A deposit may be paid in installments.
- (k) A utility receiving deposits shall maintain records showing:
  - (I) the name of each customer making a deposit;
  - (II) the amount and date of the deposit;
  - (III) each transaction, such as the payment of interest or interest credited, concerning the deposit;
  - (IV) each premise where the customer receives service from the utility while the deposit is retained by the utility;
  - (V) if the deposit was returned to the customer, the date on which the deposit was returned to the customer; and
  - (VI) if the unclaimed deposit was paid to the energy assistance organization, the date on which the deposit was paid to the energy assistance organization.
- (l) Each utility shall state in its tariff its customer deposit policy for establishing or maintaining service. The tariff shall state the circumstances under which a deposit will be required and the circumstances under which it will be returned. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.
- (m) Each utility shall issue a receipt to every customer from whom a deposit is received. No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.
- (n) The payment of a deposit shall not relieve any customer from the obligation to pay current bills as they become due. A utility is not required to apply any deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (o) A utility shall pay simple interest on a deposit at the percentage rate per annum as calculated by Commission staff and in the manner provided in this paragraph.
  - (I) At the request of the customer, the interest shall be paid to the customer either on the return of the deposit or annually. The simple interest on a deposit shall be earned from the date the deposit is received by the utility to the date the customer is paid. At the option of the utility, interest payments may be paid directly to the customer or by a credit to the customer's account.
  - (II) The simple interest to be paid on a deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately

preceding year) of the 12 monthly average rates of interest expressed in percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the Federal Reserve Bulletin, by the Board of Governors of the Federal Reserve System. Each year, Commission staff shall compute the interest rate to be paid. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is less than 25 basis points, the existing customer deposit interest rate shall continue for the next calendar year. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is 25 basis points or more, the newly calculated customer deposit interest rate shall be used. The Commission shall send a letter to each utility stating the rate of interest to be paid on deposits during the next calendar year. Annually following receipt of Commission staff's letter, if necessary, each utility shall file by advice letter or application, as appropriate, a revised tariff, effective the first day of January of the following year, or on an alternative date set by the Commission, containing the new rate of interest to be paid upon customers' deposits, except when there is no change in the rate of interest to be paid on such deposits.

- (p) A utility shall have tariffs concerning third-party guarantee arrangements and, pursuant to those tariffs, shall offer the option of a third party guarantee arrangement for use in lieu of a deposit. The following shall apply to third-party guarantee arrangements:
- (I) an applicant for service or a customer may elect to use a third-party guarantor in lieu of paying a deposit;
  - (II) the third-party guarantee form, signed by both the third-party guarantor and the applicant for service or the customer, shall be provided to the utility;
  - (III) the utility may refuse to accept a third-party guarantee if the guarantor is not a customer in good standing at the time of the guarantee;
  - (IV) the amount guaranteed shall not exceed the amount which the applicant for service or the customer would have been required to provide as a deposit;
  - (V) the guarantee shall remain in effect until the earlier of the following occurs:
    - (A) the guarantee is terminated in writing by the guarantor;
    - (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ceases to be a customer of the utility; or
    - (C) the customer has established a satisfactory payment record, as defined in the utility's tariffs, for 12 consecutive months.
  - (VI) Should the guarantor terminate service or terminate the third party guarantee before the customer has established a satisfactory payment record for 12 consecutive months, the utility, applying the criteria contained in its tariffs, may require a deposit or a new third party guarantor.

- (q) A utility shall pay all unclaimed monies, as defined in § 40-8.5-103(5), C.R.S., that remain unclaimed for more than two years to the energy assistance organization. "Unclaimed monies" shall not include: undistributed refunds for overcharges subject to other statutory provisions and rules; and, credits to existing customers from cost adjustment mechanisms.
- (I) Monies shall be deemed unclaimed and presumed abandoned when left with the utility for more than two years after termination of the services for which the deposit or the construction advance was made or when left with the utility for more than two years after the deposit or the construction advance becomes payable to the customer pursuant to a final Commission order establishing the terms and conditions for the return of such deposit or advance and the utility has made reasonable efforts to locate the customer.
- (II) Interest on a deposit shall accrue at the rate established pursuant to paragraph (o) of this rule commencing on the date on which the utility receives the deposit and ending on the date on which the deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed deposit to the energy assistance organization within four months of the date on which the unclaimed deposition is deemed to be unclaimed or abandoned pursuant to subparagraph (q)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed deposit at the rate established pursuant to paragraph (o) of this rule plus six percent.
- (III) If payable under the utility's line extension tariff provisions, interest on a construction advance shall accrue at the rate established pursuant to paragraph (o) of this rule commencing on the date on which the construction advance is deemed to be owed to the customer pursuant to the utility's extension policy and ending on the date on which the construction advance is paid to the energy assistance organization. If the utility does not pay the unclaimed construction advance to the energy assistance organization within four months of the date on which the unclaimed construction advance is deemed to be unclaimed or abandoned pursuant to subparagraph (q)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed construction advance at the rate established pursuant to paragraph (o) of this rule plus six percent.
- (r) A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.
- (s) If a utility has paid unclaimed monies to the energy assistance organization, a customer later makes an inquiry claiming those monies, and the utility resolves the inquiry by paying those monies to the customer, the utility may deduct the amount paid to the customer from future funds submitted to the energy assistance organization.
- (t) For purposes of paragraphs (q), (r), and (s) of this rule, "utility" means and includes: a cooperative electric association which elects to be so governed; and a utility as defined in paragraph 3001(xx).

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[indicates omission of unaffected rules]

**3407. Discontinuance of Service.**

- (a) A utility shall not discontinue the service of a customer for any reason other than the following:
  - (I) nonpayment of regulated charges;
  - (II) fraud or subterfuge;
  - (III) service diversion;
  - (IV) equipment tampering;
  - (V) safety concerns;
  - (VI) exigent circumstances;
  - (VII) discontinuance ordered by any appropriate governmental authority; or
  - (VIII) properly discontinued service being restored by someone other than the utility when the original cause for proper discontinuance has not been cured.
- (b) A utility shall apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. A utility shall not discontinue service for nonpayment of any of the following:
  - (I) any amount which has not appeared on a regular monthly bill or which is not past due. Unless otherwise stated in a tariff or Commission rule, an account becomes "past due" on the 31st day following the due date of current charges;
  - (II) any past due amount that is less than \$50;
  - (III) any amount due on another account now or previously held or guaranteed by the customer, or with respect to which the customer received service, unless the amount has first been transferred either to an account which is for the same class of service or to an account which the customer has agreed will secure the other account. Any amount so transferred shall be considered due on the regular due date of the bill on which it first appears and shall be subject to notice of discontinuance as if it had been billed for the first time;
  - (IV) any amount due on an account on which the customer is or was neither the customer of record nor a guarantor, or any amount due from a previous occupant of the premises. This subparagraph does not apply if the customer is or was obtaining service through fraud or subterfuge or if paragraph 3401(c) applies;
  - (V) any amount due on any account for which the present customer is or was the customer of record, if another person established the account through fraud or subterfuge and without the customer's knowledge or consent;
  - (VI) any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred;

- (VII) any debt except that incurred for service rendered by the utility in Colorado;
  - (VIII) any unregulated charge; or
  - (IX) any amount which is the subject of a pending dispute or informal complaint under rule 3004.
- (c) If the utility discovers any connection or device installed on the customer's premises, including any energy-consuming device connected on the line side of the utility's meter, which would prevent the meter from registering the actual amount of energy used, the utility shall do one of the following.
- (I) Remove or correct such devices or connections. If the utility takes this action, it shall leave at the premises a written notice which advises the customer of the violation, of the steps taken by the utility to correct it, and of the utility's ability to bill the customer for any estimated energy consumption not properly registered. This notice shall be left at the time the removal or correction occurs.
  - (II) Provide the customer with written notice that the device or connection must be removed or corrected within 15 days and that the customer may be billed for any estimated energy consumption not properly registered. If the utility elects to take this action and the device or connection is not removed or corrected within the 15 days permitted, then within seven calendar days from the expiration of the 15 days, the utility shall remove or correct the device or connection pursuant to subparagraph (c)(I) of this rule.
- (d) If a utility discovers evidence that any utility-owned equipment has been tampered with or that service has been diverted, the utility shall provide the customer with written notice of the discovery. The written notice shall inform the customer of the steps the utility will take to determine whether non-registration of energy consumption has or will occur and shall inform the customer that the customer may be billed for any estimated energy consumption not properly registered. The utility shall mail or hand-deliver the written notice within three calendar days of making the discovery of tampering or service diversion.
- (e) A utility shall not discontinue service, other than to address safety concerns or in exigent circumstances, if one of the following is met.
- (I) A customer at any time tenders full payment in accordance with the terms and conditions of the notice of discontinuance to a utility employee authorized to receive payment. Payment of a charge for a service call shall not be required to avoid discontinuance.
  - (II) If a customer pays, on or before the expiration date of the notice of discontinuance, at least one-tenth of the amount shown on the notice and enters into an installment payment plan with the utility, as provided in rule 3404.
  - (III) Outside the hours of 8:00 a.m. and 4:00 p.m., Monday through Thursday.
  - (IV) Between the hours of 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday or day during which the utility's local office is closed.

- (V) To the greatest extent practicable, a utility shall not disconnect a customer after 11:59 a.m. on a Monday through Thursday.
- (VI) Medical emergencies.
  - (A) A utility shall postpone discontinuance of electric service to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service discontinuance will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. A customer may invoke this subparagraph only once in any twelve consecutive months.
  - (B) As a condition of obtaining a new installment payment plan on or before the last day covered by a medical certificate, a customer who has already entered into a payment arrangement, but broke the arrangement prior to seeking a medical certificate, may be required to pay all amounts that were due up to the date of the original medical certificate as a condition of obtaining a new payment arrangement. At no time shall a payment from the customer be required as a condition of honoring a medical certificate.
  - (C) The medical certificate must be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician or health care practitioner licensed to prescribe and treat patients, and clearly show the name of the customer or individual whose illness is at issue; the Colorado medical identification number, phone number, name, and signature of the physician, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate is not contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.
  - (D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.
- (VII) Weather provisions.
  - (A) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.
  - (B) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and

9:00 a.m. predicts that the temperature will be 95 degrees Fahrenheit (95°F) or higher at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are cooler than these criteria.

- (C) A utility shall postpone service discontinuance to a residential customer during an emergency or safety event or circumstance impacting the local area.
- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced in English and a specific language or languages other than English where the utility's entire service territory contains a population of at least ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information. A utility must include at least the following information:
  - (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
  - (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;
  - (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
  - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service; and options and hours to contact the utility for support relating to service restoration;
  - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 3404(a) and 3403(j), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;
  - (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
  - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer's balance to an occupant; and

- (VIII) a description of the utility's Demand-Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.
- (g) Reporting requirements.
  - (I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by income qualified customers, defined as customers participating in income qualified programs authorized by rule 3412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 3033(b) shall not apply. The report shall contain the following information, displayed by quarter:
    - (A) total number of unique customers;
    - (B) total dollar amount billed;
    - (C) total number of customers charged a late payment charge;
    - (D) total dollar amount of late payment charges collected;
    - (E) number of customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
    - (F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
    - (G) total number of disconnection notices sent;
    - (H) total number of disconnections for nonpayment;
    - (I) total number of service restorations after disconnections for nonpayment;
    - (J) average duration of disconnection for nonpayment by hours, measured from when the customer completes an action in paragraph 3409(b) to when service is restored;
    - (K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;
    - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
    - (M) total number of new installment payment plans entered into;
    - (N) average repayment term of new installment payment plans entered into;

- (O) total dollar amount of fees collected for disconnecting service for nonpayment;
  - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
  - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
  - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the data in the prior year including, at minimum, an analysis of:
    - (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
    - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
  - (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts made to identify entities to which the utility refers customers for energy bill assistance.
- (h) Receipt of a qualifying communication. For purposes of compliance with § 40-3-103.6(3)(c)(II) and subparagraph 3001(hh)(II)(B), a customer "receives" the text or e-mail if:
- (I) the utility sends the text or email with customer assistance information to the text address or e-mail address previously provided by the customer to the utility; and
  - (II) the utility does not subsequently receive a "bounce back" or other message indicating the text address is invalid or the e-mail address is invalid.
- (i) Customer education and outreach strategy. A utility shall conduct at least one meeting with stakeholders and interested customers for the purpose of seeking input on its customer education and outreach strategy for conducting disconnections and reconnections during its multi-year strategy reporting period under paragraph 3407(j). The results of these meetings and a detailed summary of the customer education and outreach conducted will be reported as part of its first annual report due no later than March 1, 2024, and each subsequent reporting year.

- (j) Customer education and outreach multi-year strategy reporting. As part of its annual report due no later than March 1, 2024, a utility shall file a customer education and outreach strategy on residential and small commercial customer disconnections and reconnections covering a span of the next five years. As part of this filing, a utility shall provide an overview of its education and outreach efforts, including qualifying communications, disconnection and reconnection data and trends, and the tariffed rates for disconnection and reconnections. Additionally, if applicable, an electric utility shall provide an overview of its historical use of remote disconnections, including the time period in which such an electrical utility has used remote disconnections and reconnections. Upon filing of an initial multi-year strategy report, each utility shall file an update to its report every five years on March 1 of the relevant year. A utility filing a strategy report required by paragraphs (i)-(j) of this rule is required to file updated reporting if the education and outreach strategy changes in a material and substantial way.
- (k) Tariff. A utility shall file language to include in its tariff as cited below a requirement to report on its five-year customer education and outreach strategy, and if applicable, qualifying communications for reconnections. A utility filing a strategy report required by paragraphs (i)-(j) of this rule is required to file updated reporting if the education and outreach strategy changes in a material and substantial way.

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[indicates omission of unaffected rules]

**3409. Restoration of Service.**

- (a) Unless prevented from doing so by safety concerns or exigent circumstances, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 3407, 3408, and 3409.
- (b) A utility shall restore service if the customer does any of the following:
  - (I) pays in full the amount for regulated charges shown on the notice and any deposit and/or fees as may be specifically required by the utility's tariff in the event of discontinuance of service;
  - (II) pays any reconnection and collection charges specifically required by the utility's tariff, enters into an installment payment plan, and makes the first installment payment, unless the cause for discontinuance was the customer's breach of such an arrangement;
  - (III) presents a medical certificate, as provided in subparagraph 3407(e)(IV); or
  - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.
- (c) A utility shall reconnect a customer's service on the same day as the customer requests reconnection, if the customer makes a payment or payment arrangement in accordance with the

utilities policies, requesting reconnection of service on a Monday through Friday that is not a holiday, and one of the following circumstances is met:

- (I) the customer has advanced metering infrastructure and has requested reconnection of service at least one hour before the close of business for the electric utility's customer service division; except that the utility may reconnect service on the day following a disconnection of service if there are internet connectivity, technical, or mechanical problems or emergency conditions that reasonably prevent the utility from remotely reconnecting the customer's service; or
- (II) the customer is without advanced metering infrastructure and has requested reconnection of service on or before 12:59 p.m.; except that, an electric utility or gas utility may reconnect the customer's service on the day following a disconnection if:
  - (A) prior to disconnection of the customer's service, the utility has made a qualifying communication with the customer; or
  - (B) an emergency or safety event or circumstance arises after disconnection of service that renders the utility's staff temporarily unavailable to safely reconnect service. If next-day reconnection of service is not possible due to the continuation of the emergency or safety event or circumstance, the utility shall reconnect the customer's service as soon as possible.
- (d) Unless prevented by an emergency or safety event or circumstance, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs.
- (e) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

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[indicates omission of unaffected rules]

**3411. Low-Income Energy Assistance Act.**

- (a) Scope and applicability.
  - (I) Rule 3411 is applicable to electric utilities, combined gas and electric utilities, and cooperative electric association except those exempted under (II) or (III). Pursuant to §§ 40-8.7-101 through 111, C.R.S., utilities are required to provide an opportunity for their customers to contribute an optional amount through the customers' monthly billing statement.

- (II) Municipally owned electric utilities, combined gas and electric utilities, or cooperative electric associations are exempt if:
  - (A) the utility operates an alternative energy assistance program to support its income qualified customers with their energy needs and self-certifies to the organization through written statement that its program meets the following criteria:
    - (i) the amount and method for funding of the program has been determined by the governing body; and
    - (ii) the program monies will be collected and distributed in a manner and under eligibility criteria determined by the governing body for the purpose of residential energy assistance to customers who are challenged with paying energy bills for financial reasons, including seniors on fixed incomes, individuals with disabilities, and income qualified individuals; or
  - (B) the governing body of the utility determines its service area has a limited number of people who qualify for energy assistance and self-certifies to the organization via written statement such determination.
- (III) A municipally owned electric utility, combined gas and electric utility, or cooperative electric association not exempt under subparagraph (II), is exempt if:
  - (A) the utility designs and implements a procedure to notify all customers at least twice each year of the option to conveniently contribute to the organization by means of a monthly energy assistance charge. Such procedure shall be approved by the governing utility. The governing body of such utility shall determine the disposition and delivery of the optional energy assistance charge that it collects on the following basis:
    - (i) delivering the collections to the organization for distribution; or
    - (ii) distributing the moneys under criteria developed by the governing body for the purpose set forth in subparagraph (II)(A)(ii).
  - (B) Alternatively, the utility provides funding for energy assistance to the organization by using a source of funding other than the optional customer contribution on each customer bill that approximates the amount reasonably expected to be collected from an optional charge on customer's bills.
- (IV) A municipally owned electric utility, combined gas and electric utility, or cooperative electric association that is exempt under subparagraph (III) shall be entitled to participate in the organization's low-income assistance program.
- (V) Electric utilities, combined gas and electric utilities, and cooperative electric associations that desire a change in status must inform the organization and file a notice to the Commission within 30 days prior to expected changes.

- (b) Definitions. The following definitions apply only in the context of rule 3411. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply:
- (I) “Alternative energy assistance program” means a program operated by a municipally owned electric and gas utility or rural electric cooperative that is not part of the energy assistance program established pursuant to this statute.
  - (II) “Customer” means the named holder of an individually metered account upon which charges for electricity or gas are paid to a utility. “Customer” shall not include a customer who receives electricity or gas for the sole purpose of reselling the electricity or gas to others.
  - (III) “Energy assistance program” or “Program” means the Low Income Energy Assistance Program created by § 40-8.7-104, C.R.S., and designed to provide financial assistance, residential energy efficiency, and energy conservation assistance.
  - (IV) “Organization” means Energy Outreach Colorado, a Colorado nonprofit corporation, formerly known as the Colorado Energy Assistance Foundation.
  - (V) “Remittance device” means the section of a customer’s utility bill statement that is returned to the utility company for payment. This includes but is not limited to paper payment stubs, web page files used to electronically collect payments, and electronic fund transfers.
  - (VI) “Utility” means a corporation, association, partnership, cooperative electric association, or municipally owned entity that provides retail electric service or retail gas service to customers in Colorado. “Utility” does not mean a propane company.
- (c) Plan implementation and maintenance.
- (I) Except as provided in paragraph 3411(a), each utility shall implement and maintain a customer opt-in contribution mechanism. The utility’s opt-in mechanism shall include, at minimum, the following provisions:
    - (A) A description of the procedures the utility will use to notify its customers, including those customers that make payments electronically, about the opt-in provision prior to September 1, 2006. Utilities may combine their efforts to notify customers into a single state-wide or region-wide effort consistent with the participating utilities communication programs. Each participating utility shall clearly identify its support of the combined communications program, with its corporate name and/or logo visible to the intended audience.
    - (B) A description of the additional efforts the utility will use to inform its customers about the program to ensure that adequate notice of the opt-in provision is given to all customers. Notification shall include communication to all customers that the donation and related information will be passed through to the Organization.
    - (C) A description of the check-off mechanism that will be displayed on the monthly remittance device to solicit voluntary donations. The remittance device shall

include, at minimum, check-off categories of five dollars, ten dollars, twenty dollars, and “other amount”. The remittance device must also note the name of the program as the “voluntary energy assistance program,” or if the utility is unable to identify the name of the program individually, the utility shall use a general energy assistance identifier approved by the Commission.

- (D) A description or an example of how the utility will display the voluntary contribution as a separate line item on the customer’s monthly billing statement and how the voluntary contribution will be included in the total amount due. The line item must identify the contribution as “voluntary”.
- (E) A description of the notification process that the utility will use to ensure that once a utility customer opts into the program, the energy assistance contribution will be assessed on a monthly basis until the customer notifies the utility of the customer’s desire to stop contributing. The utility shall describe how it will manage participation in the program when customers miss one or more voluntary payment, or pay less than the pre-selected donation amount.
- (F) Identification of the procedures the utility will use to notify customers of their ability to cancel or discontinue voluntary contributions along with a description of the mechanism the utility will use to allow customers who make electronic payments to discontinue their participation in the opt-in program.
- (G) A description of the procedures the utility will use, where feasible, to notify customers participating in the program about the customer’s ability to continue to contribute when the customer changes their address within the utility’s service territory.
- (H) A description of the method the utility will use to provide clear, periodic, and cost-effective notice of the opt-in provision to its customers at least twice per year. Acceptable methods include, but are not limited to, bill inserts, statements on the bill or envelope, and other utility communication pieces.
- (I) An estimate of the start-up costs that the utility expects to incur in connection with the program along with supporting detailed justification for such costs. This estimate should include the utility’s initial costs of setting up the collection mechanism and reformatting its billing systems to solicit the optional contribution but shall not include the cost of any notification efforts by the utility. Utilities may elect to recover all start-up costs before the remaining moneys generated by the program are distributed to the Organization or over a period of time from the funds generated by the program, subject to Commission review and approval.
- (J) An estimate of the on-going costs that the utility expects to incur in connection with the program along with supporting detailed justification for such costs. This estimate shall not include the cost of any notification efforts by the utility.
- (K) A detailed justification for the costs identified in subparagraphs (I) and (J). As stated in § 40-8.7-104(3), C.R.S., the costs incurred must be reasonable in connection with the program.

- (L) Utilities shall recover the startup cost and on-going cost of administration associated with the program from funds generated from the program. Insert and notification costs shall be considered in the utility's cost of service.
  - (M) A description of the procedures the utility will use to account for and process program donations separately from customer payments for utility services.
  - (II) Each utility shall participate in the energy assistance program consistent with its plan approved by the Commission and shall provide the opportunity for its customers to make an optional energy assistance contribution on the monthly remittance device on their utility billing.
  - (III) The utility may submit an application to the Commission no later than April 1 of each year for approval of reimbursement costs the utility incurred for the program during the previous calendar year. Such application shall include a proposed schedule for the reimbursement of these costs to the utility. The applications shall include detailed supporting justification for approval of these costs. Such detailed justification includes, but is not limited to, copies of receipts and time sheets. Such applications shall not seek reimbursement of costs related to notification efforts. Participating utilities may include reimbursement costs for such notification efforts in their periodic cost of service rate filings, subject to Commission review and approval.
  - (IV) A utility may seek modification of its initial plan or subsequent plans by filing an application with the Commission. Such application shall meet the requirements of (d)(I).
- (d) Fund administration.
- (I) At a minimum, each utility shall transfer the funds collected from its customers under the Energy assistance program to the organization under the following schedule:
    - (A) for the funds collected during the period of January 1 to March 31 of each year, the utility shall transfer the collected funds to the organization before May 1 of such year;
    - (B) for the funds collected during the period of April 1 to June 30 of each year, the utility shall transfer the collected funds to the organization before August 1 of such year;
    - (C) for the funds collected during the period of July 1 to September 30 of each year, the utility shall transfer the collected funds to the organization before November 1 of such year;
    - (D) for the funds collected during the period of October 1 to December 31 of each year, the utility shall transfer the collected funds to the organization before February 1 of the next year; and
    - (E) each utility shall maintain a separate accounting for all energy assistance program funds received by customers.

- (II) Each utility shall provide the organization with the following information.
  - (A) How the funds collected for the previous calendar year were generated, including the number of customers participating in the program. Such report shall include a summary of the number of program participants and funds collected by month, and shall be provided by February 1 of each year.
  - (B) At each time funds are remitted, a listing of all program participants including the donor's name, billing address, and monthly donation amount. The participant information provided to the organization shall be used exclusively for complying with the requirements of § 40-8.7-101, C.R.S., et seq. and state and federal laws.
- (III) The Commission shall submit, as necessary, a bill for payment to the organization for any administrative costs incurred pursuant to the program.
- (IV) The organization shall provide the Office of Utility Consumer Advocate and the Commission with a copy of the written report that is described in § 40-8.7-110, C.R.S. This report shall not contain individual participant information.
- (e) Prohibition of disconnection. Utilities shall not disconnect a customer's electric service for non-payment of optional contribution amounts.

**3412. Electric Service Affordability Program.**

- (a) Scope and applicability.
  - (I) Electric utilities with Colorado retail customers shall provide income qualified energy assistance by offering rates, charges, and services that grant a reasonable preference or advantage to residential income qualified customers, as permitted by § 40-3-106, C.R.S. Electric utilities shall use consistent naming for assistance programs: [Utility name] Affordability Program.
  - (II) Rule 3412 is applicable to investor-owned electric utilities subject to rate regulation by the Commission.
- (b) Definitions. The following definitions apply only in the context of rule 3412. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.
  - (I) "Administrative cost" means the utility's direct cost for labor (to include the cost of benefit loadings), materials, and other verifiable expenditures directly related to the administration and operation of the program not to exceed ten percent of the total cost of program credits applied against bills for current usage and pre-existing arrearages or \$10,000, whichever amount is greater.
  - (II) "Affordable percentage of income payment" means the amount of the participant's annual bill deemed affordable under subparagraph 3412(e)(I).

- (III) “Arrearage” means the past-due amount appearing, as of the date on which a participant newly enters the program, on the then most recent prior bill rendered to a participant for which they received the benefit of service.
- (IV) “Colorado Energy Office” means the Colorado Energy Office created in § 24-38.5-101, C.R.S.
- (V) “Eligible income qualified customer” means a residential utility customer who meets the household income thresholds pursuant to paragraph 3412(c).
- (VI) “Fixed credit” means an annual bill credit established at the beginning of a participant’s participation in a program each year delivered as a monthly credit on each participant’s bill. The fixed credit is the participant’s full annual bill minus the participant’s affordable percentage of income payment obligation on the full annual bill.
- (VII) “Full annual bill” means the current consumption of a participant billed at standard residential rates. The full annual bill of a participant is comprised of two parts: (1) that portion of the bill that is equal to the affordable percentage of income payment; and, (2) that portion of the bill that exceeds the affordable percentage of income payment.
- (VIII) “LEAP” means Low-Income Energy Assistance Program, a county-run, federally-funded, program supervised by the Colorado Department of Human Services, Division of Low-Income Energy Assistance.
- (IX) “LEAP participant” means a utility customer who at the time of applying to participate in a program has been determined to be eligible for LEAP benefits by the Department during either: (1) the Department’s current LEAP application period, if that period is open at the time the customer applies for program participation; or, (2) the Department’s most recently closed LEAP application period, if that period is closed at the time the customer applies to participate in the program and the Department’s next LEAP application period has not yet opened, provided, however, that in order to retain status as a LEAP participant under part (2) of this definition, the utility customer must apply to the Department during the Department’s next LEAP benefit application period and be determined eligible for such benefits.
- (X) “Non-participant” means a utility customer who is not receiving income qualified assistance under rule 3412.
- (XI) “Participant” means an eligible income qualified residential utility customer who is granted the reasonable preference or advantage through participation in an electric service low-income program.
- (XII) “Percentage of Income Payment Plan” (or “PIPP”) means a payment plan for participants that does not exceed an affordable percentage of their household income as set forth in subparagraph 3412(e)(I).
- (XIII) “Program” means an electric service low-income program approved under rule 3412.

- (XIV) “Program credits” means the amount of benefits provided to participants to offset the unaffordable portion of a participant’s utility bill and /or dollar amounts credited to participants for arrearage forgiveness.
  - (XV) “Unaffordable portion” means the amount of the estimated full annual bill that exceeds the affordable percentage of income payment.
- (c) Participant eligibility.
- (I) Eligible participants are limited to those who meet one or more of the following criteria:
    - (A) household income less than or equal to 200 percent of the federal poverty guideline;
    - (B) household income less than or equal to 80 percent of the area median income, as published annually by the United States Department of Housing and Urban Development; or
    - (C) qualification under income guidelines adopted by the Department of Human Services pursuant to § 40-8.5-105, C.R.S.
  - (II) The utility shall obtain the determination of a participant’s eligibility from the Department of Human Services, Energy Outreach Colorado, or the Colorado Energy Office.
  - (III) If a participant’s household income is \$0, the utility may establish a process that verifies income on a more frequent basis.
  - (IV) Program participants shall not be required to make payment on their utility account as a condition of entering into the program.
- (d) Enrollment. Utilities shall be responsible for the methods by which participant enrollment in their approved low-income program is obtained and sustained, however the utility should engage in enrollment processes that are efficient and attempt to maximize the potential benefits of participation in the low-income program by low-income customers.
- (e) Payment plan.
- (I) Participant payments for electric bills rendered to participants shall not exceed an affordable percentage of income payment. The percentage of a participant’s household income for which the participant is responsible shall be determined as follows:
    - (A) for electric accounts for which electricity is the primary heating fuel, participant payments shall be no lower than three percent and not greater than six percent of the participant’s household income; however, if the participant also has natural gas service from a regulated utility, participant payments shall not be greater than five percent of the participant’s household income; and

- (B) for electric accounts for which electricity is not the primary heating fuel, participant payments shall be no lower than two percent and not greater than three percent of the participant's household income.
- (II) In the event that a primary heating fuel for any particular participant has been identified by LEAP, that determination shall be final.
- (III) Notwithstanding the percentage of income limits established in subparagraph 3412(e)(I), a utility may establish minimum monthly payment amounts for participants with household income of \$0, provided that:
  - (A) the participant's minimum payment for an electric heating account shall be no more than \$20.00 a month; and
  - (B) the participant's minimum payment for an electric non-heating account shall be no more than \$10.00 a month.
- (IV) Full annual bill calculation. The utility shall be responsible for estimating a participant's full annual bill for the purpose of determining the unaffordable portion of the participant's full annual bill delivered as a fixed credit on the participant's monthly billing statement.
- (V) Fixed credit benefit. The fixed credit shall be adjusted during a program year in the event that standard residential rates, including commodity or fuel charges change to the extent that the full annual bill at the new rates would differ from the full annual bill upon which the fixed credits are currently based by 25 percent or more.
- (VI) Levelized budget billing participation. A utility may enroll participants in its levelized budget billing program as a condition of participation in the program, though the utility shall also allow participants the option to opt out of levelized budget billing if they so choose without losing PIPP benefits, which option shall be available to the participants where the utility's automated billing system is capable. Utilities without automated billing systems capable of permitting opt out of levelized budget billing shall reasonably and prudently modify their systems to facilitate opt out of levelized budget billing. Should a participant fail to meet monthly bill obligations and be placed by a utility in its regular delinquent collection cycle, the utility may remove the participant from levelized budget billing in accordance with the utility's levelized budget billing tariff.
- (VII) Arrearage credits.
  - (A) Arrearage credits shall be applied to pre-existing arrearages.
  - (B) Arrearage credits shall be sufficient to reduce, when combined with participant copayments, if any, the pre-existing arrearages to \$0.00 over a period not less than one month and not more than twenty-four months.
  - (C) Application of an arrearage credit to a participant account may be conditioned by the utility on one or more of the following:

- (i) the receipt of regular participant payments toward bills for current usage;  
or
    - (ii) the payment of a participant copayment toward the arrearages so long as the participant's copayment total dollar amount does not exceed one percent of gross household income.
  - (D) Should the participant exit the program prior to the full forgiveness of all pre-existing arrearages, the amount of remaining pre-existing arrearages shall become due in accordance with the utility's tariff filed under rules 3401, 3407, and 3408.
  - (E) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the program.
  - (F) A participant may receive arrearage credits under this section even if that participant does not receive a credit toward current bills.
  - (VIII) Portability of benefits. A participant may continue to participate without reapplication should the participant change service addresses but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the billing amount to reflect the changed circumstances. A participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.
  - (IX) Payment default provisions. Failure of a participant to make his or her monthly bill payments may result in a utility placing the participant in its regular collection cycle. Partial or late payments shall not result in the removal of a participant from the program.
- (f) Program implementation.
- Each utility shall maintain effective terms and conditions in its tariffs on file with the Commission containing its low-income program.
- (g) Cost recovery.
- (I) Each utility shall include in its income qualified tariff terms and conditions how costs of the program will be recovered.
  - (II) Program cost recovery.
    - (A) Program cost recovery shall be based on a fixed monthly fee.
    - (B) The maximum impact on residential rates shall be no more than \$1.00 per month.

- (C) In order to determine monthly rates applicable to rate classes other than residential, program costs shall be allocated to each retail rate based on each rate class's share of the test year revenue requirement established in the utility's last Phase II rate case, or under another reasonable methodology supported by quantifiable information. The monthly rate per this subparagraph to be charged each rate schedule customer shall be clearly stated on a tariff sheet.
- (D) Utilities shall separately account for the program year's program cost recovery and program and administrative costs to determine if the net of program cost recovery and program and administrative cost are in balance during the program year.
  - (i) No later than December 31 of each year, the utility shall file a report with the Commission in the most recent miscellaneous proceeding for annual low-income filings detailing the net difference between program cost recovery and program costs as of October 31 of each year.
    - (1) Should the net difference of program cost recovery over program and administrative costs be greater than 50 percent derived in (D) above, either positive or negative, and the utility is not currently at the maximum impact for non-participants, the utility shall file with the Commission an advice letter and tariff pages seeking approval for the rates determined in subparagraph 3412(g)(II)(D) in order to bring the projected recovery in balance for the ensuing 12 month period. The revised charge shall not exceed the maximum impact for non-participants in subparagraph 3412(g)(II)(C).
- (III) The following costs are eligible for recovery by a utility as program costs:
  - (A) program credits or discounts applied against bills for current usage.
  - (B) program credits applied against pre-existing arrearages.
  - (C) program administrative costs; and
  - (D) Commission-sponsored program evaluation costs required under paragraph 3412(k).
- (IV) The utility shall apply, as an offset to cost recovery, all program expenses attributable to the program. Program expenses include utility operating costs; changes in the return requirement on cash working capital for carrying arrearages; changes in the cost of credit and collection activities directly related to income qualified participants; and changes in uncollectable account costs for these participants.
- (V) LEAP grants. The utility may apply energy assistance grants provided to the participant by the LEAP program to the dollar value of credits granted to individual program participants.

- (A) If applying LEAP grants first, a utility shall apply any energy assistance benefit granted to the participant by LEAP to that portion of the program participant's full annual bill that exceeds the participant's affordable percentage of income payment.
  - (B) If the dollar value of the energy assistance grant is greater than the dollar value of the difference between the program participant's full annual bill and the participant's affordable percentage of income payment, the dollar amount by which the energy assistance grant exceeds the difference will be applied:
    - (i) first, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding; and
    - (ii) second, to the account of the program participant as a benefit to the participant.
  - (C) No portion of an energy assistance or LEAP grant provided to a program participant may be applied to the account of a participant other than the participant to whom the energy assistance grant was rendered.
  - (D) If an all-electric utility's income qualified customers do not benefit widely from LEAP grants, the utility shall not apply the dollar value of credits granted to individual LEAP grantees to the dollar value of credits granted to individual program participants.
- (h) Other programs. In addition to the utility's low-income program, with Commission approval, a utility may offer other rate relief options to eligible households.
- (I) Other programs offered by the utility under rule 3412 must be intended to reach income qualified households that do not substantially benefit from the provisions of the low-income program. Such programs may take the form of discount rates, tiered discount rates or other direct bill relief methods where the income qualified household benefitting from the program is granted a reasonable preference in tariffed rates assessed to all residential utility customers.
  - (II) Cost recovery for other programs combined with the Percentage of Income Payment Plan shall not exceed the maximum impact on residential rates described in subparagraph 3412(g)(II)(C).
- (i) Energy efficiency and weatherization.
- (I) The utility shall provide all program participants with information on energy efficiency programs offered by the utility or other entities and existing weatherization programs offered by the state of Colorado or other entities.
  - (II) The utility shall provide the Colorado Energy Office with the name and service address of participant households for which annual electricity usage exceeds 10,000 kWh annually.

- (j) Stakeholder engagement. A utility shall conduct annual meetings with income qualified stakeholders for the purpose of seeking solutions to issues of mutual concern and aligning program practices with the needs of customers and other stakeholders.
- (k) Program evaluation. A triennial evaluation of the program provisions under rule 3412 beginning in 2019 shall be undertaken in order to review best practices in similar low-income assistance programs in existence in other regulatory jurisdictions, as well as evaluate operation of each utility's program for effectiveness in achieving optimum support being provided to income qualified participants. The evaluation shall also recommend modifications if available that improve the delivery of benefits to participants and increase the efficiency and effectiveness of each program as they exist at the point of evaluation. The program evaluation shall include a customer needs assessment provided that adequate funds are available.
  - (I) Procurement of the third-party vendor that will perform the evaluation will be undertaken by the Colorado Energy Office. The CEO shall seek the involvement of interested stakeholders including, but not limited to, Commission staff, all Commission regulated electric and gas utilities, LEAP, the Office of Consumer Counsel, and Energy Outreach Colorado in the design of the requirements regarding study focus and final reporting.
  - (II) Approval of the third-party vendor shall be the responsibility of the Commission. The CEO shall file with the Commission in the most recent annual report proceeding, a request for approval of the contract of the vendor selected. The Commission shall review and act on the request within 30 days.
  - (III) \$00.0013 per customer per month shall be set aside by the utility in order to fund the triennial evaluation of the program evaluation described in paragraph 3412(k).
  - (IV) The dollars resulting from the \$00.0013 charge shall be recovered as a program cost under subparagraph 3412(f)(IV).
  - (V) The evaluation will be filed by Commission staff in the most recent miscellaneous proceeding for annual low-income filings.
  - (VI) Staff and the CEO will assess the individual utilities' deferred balances set aside for the program evaluation starting in 2019 at the conclusion of the third program year and each three years thereafter and will determine the amounts each utility is to remit to the third party evaluator based on the contractual terms approved by the Commission for the evaluation.
- (l) Annual report. No later than December 31 of each year, each utility shall file a report in the most recent miscellaneous proceeding for annual low-income filings using the form available on the Commission's website based on each 12-month period ending October 31, and containing the following information:
  - (I) monthly information on the program including total number of participants, amount of benefit disbursement, type of benefit disbursement, LEAP benefits applied to the unaffordable portion of participant's bills, administrative costs, and revenue collection;
  - (II) the number of applicants for the program;

- (III) the number of applicants qualified for the program;
- (IV) the number of participants;
- (V) the average assistance provided, both mean and median;
- (VI) the maximum assistance provided to an individual participant;
- (VII) the minimum assistance provided to an individual participant;
- (VIII) total cost of the program and the average rate impact on non-participants by rate class, including impact based on typical monthly consumption of both its residential and small business customers;
- (IX) the number of participants that had service discontinued as a result of late payment or non-payment, and the amount of uncollectable revenue from participants;
- (X) an estimate of utility savings as a result of the implementation of the program (e.g., reduction in trips related to discontinuance of service, reduction in uncollectable revenue, etc.);
- (XI) the average monthly and annual total electric consumption in PIPP participants' homes;
- (XII) the average monthly and annual total electric consumption in the utility's residential customer's homes;
- (XIII) the number of program participants referred to the weatherization program;
- (XIV) the total dollar value of participant arrearages forgiven, the number of customers who had arrearage balances forgiven, and the maximum and minimum dollar value of arrears forgiven;
- (XV) a description of the ways in which the program is being integrated with existing energy efficiency, DSM, or behavioral programs offered by the utility;
- (XVI) a description of the ways in which the program is being integrated with existing weatherization programs offered by the state of Colorado;
- (XVII) a description of program outreach strategies and metrics that illustrate the effectiveness of each outreach strategy;
- (XVIII) a description of participant outreach, education, and engagement efforts, including descriptions of communications and materials, and key findings from those efforts;
- (XIX) the number of participants at the start of the program year that the utility removed for any reason, the number of participants who opted out of the program after enrollment, the number of potential participants rejected because of the existence of a cap on the program, the period of arrearage time from date participants became eligible and were granted arrearage forgiveness, and the number of participants who came back as eligible

participants in the program year after being eligible in a prior program year and were provided arrearage credits in the program year;

- (XX) a narrative summary of the utility's recommended program modifications based on report findings; and
  - (XXI) a statement regarding whether the utility is accommodating PIPP participants' requests to opt out of levelized budget billing pursuant to subparagraph 3412(e)(VI) and, if not, an explanation of why the utility believes it is not reasonable and prudent to modify its automated billing system to accommodate such requests. If the utility plans to accommodate such requests at any point in the upcoming year, a description of the plan, including the anticipated cost of the plan and the date that the functionality in its automated billing system will go online, must be included.
- (m) **Energy Assistance System Benefit Charge.** Beginning October 1, 2021, each utility shall include on its monthly bills a flat energy assistance system benefit charge of 50 cents, with this amount rising to 75 cents on October 1, 2022, and being adjusted for inflation in accordance with changes in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood beginning on October 1, 2023. The disposition of money collected by the Energy Assistance System Benefit Charge is determined by § 40-8.7-108, C.R.S.
- (l) Prior to October 1, 2023, and each year following, Commission staff shall compute the charge adjusted by the index and shall send a letter to each utility stating the charge to be paid by customers during the next calendar year.

\* \* \* \*

[indicates omission of unaffected rules]

**3540. Data Access, Privacy and Confidentiality.**

- (a) The utility shall disclose data necessary to implement these rules with appropriate levels of protection, considering sensitivity and public benefit. The utility shall identify and address the treatment of sensitive information in consideration of the objectives of DSP and as required by these rules.
- (b) The utility shall not disclose personal information, as defined in paragraph 1004(x), or customer data, as defined in paragraph 3001(k). Paragraph 3033(b) shall not apply to data releases under this rule.
- (c) In each DSP application filing made pursuant to rule 3529, the utility shall file a list of the information related to the resource plan proceeding that the utility claims is confidential and a list of the information that the utility claims is highly confidential, and its proposed treatment of the information. For good cause shown, the utility may seek to protect information as confidential or highly confidential by filing the appropriate motion under rule 1101 of the Commission's Rules of Practice and Procedure in a timely manner.