

Decision No. C02-181

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01R-346G

IN THE MATTER OF PROPOSED AMENDMENTS TO THE GAS COST ADJUSTMENT
RULES, 4 CCR 723-8.

DECISION ADOPTING RULES

Mailed Date: February 26, 2002

Adopted Date: February 6, 2002

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of proposed amendments to the Commission's Gas Cost Adjustment (GCA) Rules, 4 *Code of Colorado Regulations* ("CCR") 723-8. The Commission gave formal notice of proposed rulemaking ("NOPR") through Decision No. C01-821, mailed August 9, 2001. The Commission convened a rulemaking hearing on November 1, 2001. Representatives of Public Service Company of Colorado d/b/a Xcel Energy ("Xcel"), the Colorado Office of Consumer Counsel (OCC) and People's Natural Gas Company, a division of Utilicorp United, Inc. ("Peoples") attended the hearing. Xcel, OCC and Peoples provided written comments.

2. The statutory authority for these amendments is found in §§ 40-3-101(2), 40-3-102, 40-3-103, 40-3-106(1)(A) and

40-4-101, C.R.S. Additionally, the Commission is authorized to promulgate rules generally by § 40-2-108, C.R.S. Now being duly advised in the premises, we adopt the rules appended to this decision as Attachment A.

B. Discussion

1. Introduction

a. There are several purposes for amending our Gas Cost Adjustment rules. The primary purpose is to make permanent those changes that were adopted as emergency rules in Docket No. 01R-083G by Decision No. C01-207. The emergency rule amended Rule 5.3.3 of the GCA Rules, 4 CCR 723-8 to require that Gas Purchase Plans detail the measures each utility considers to reduce customers' risk of gas price volatility for the upcoming Gas Purchase Year.

b. Another element of the amendments is in response to concerns of several parties in Docket No. 01I-046G, where we investigated gas pricing by regulated natural gas utilities. These amendments clarify that costs related to gas price volatility risk management may be included for recovery through the GCA.

c. These amendments also contain administrative changes to the Gas Cost Adjustment, Gas Purchase Plan, Gas Purchase Report, Burden Applicability and Confidentiality

sections. The changes better reflect current Commission practices.

2. Additional rule changes advocated by parties.

a. The participants suggested other additions and modifications to the GCA rules. While some of the suggested changes were procedural, others were more substantive. The OCC suggested additional changes to Rule 4.2 regarding GCA filing requirements. This rule prohibits utilities from filing GCA applications less than two weeks in advance of the proposed effective date to allow the Commission and Staff adequate time for investigation. The OCC advocated including additional language in the rule prohibiting utilities from filing GCA applications on Less than Statutory Notice ("LSN") without a finding of good cause. According to the OCC, "... the Commission's general authority to review and investigate all filings effecting [sic] rates cannot and should not be eviscerated merely because a utility chose to file its application on less than statutory notice."

b. We decline to adopt this reasoning. The purpose of the GCA process is effectively to allow adequate gas cost recovery to utilities and to implement gas cost adjustment changes when they are representative of current gas costs. Adopting the OCC's recommendation would undermine this process. We further disagree with the OCC's argument that our suspension

authority for rate and tariff changes under § 40-6-111(1)(a) is applicable to GCA applications. We decline to extend our suspension authority beyond that which is anticipated and articulated in Colorado law.

c. The OCC recommends additional language in Rule 4.2 that would require a copy of the diskette filed by utilities that includes Exhibits 2, 3, 5 and 6 be made available to Commission Staff, the OCC and other interested parties upon execution of a non-disclosure agreement. We decline to adopt this language. We see no need to single out parties for specific procedures at this time. The information contained on the diskette is available to other parties through our current procedures and processes. The OCC also suggests utilizing a monthly GCA using an annual test period as it would tend to stabilize prices because it would dampen swings in deferred gas costs. Further, the OCC recommends that any rules adopting a monthly GCA methodology should require an annual test period. We appreciate the OCC's illustrations of the impacts surrounding monthly GCAs. We decline to adopt any monthly GCA methodology in the GCA rules. Rather than implementing changes to the Rules, we believe all aspects of such a change in GCA methodology should be considered when a complete plan is proposed.

d. The OCC also responded to our request for comment whether there should be notice to the public concerning the filing of Gas Purchase Reports ("GPR"). The OCC is supportive of an amendment that GPRs should be publicly noticed when they are filed with the Commission. According to the OCC, the public should be informed of all filings that may impact the cost of their utility service. The OCC proposes that a short statement be included in the GCA notice alerting interested persons that the utility has filed its GPR at the Commission simultaneous with its GCA. We agree with the OCC's reasoning and proposed language and adopt it as part of the amended GCA Rules.

e. In its comments, Xcel suggests that the GCA Rules should be more flexible to permit utilities to implement programs and tariff filings that address gas price volatility and provide an "enhanced level of customer choice." To accomplish this end, Xcel proposes that utilities can seek authorization for new programs by requesting, as necessary, waivers of particular GCA Rules. In the alternative, it proposes that the Commission extend this rulemaking proceeding to build sufficient flexibility into the rules.

f. We will not amend the rules to endorse, unknown future possibilities. We accept Xcel's suggestion that a utility may seek a waiver of a particular GCA Rule when it

appears to the utility that the GCA Rules conflict with new programs, and we will consider such waivers on a case by case basis.

g. Xcel also recommends the elimination of GCA financial exhibits, Nos. 10-Rate Base, 11-Net Operating Earnings, and 12-Capital Structure and Cost of Capital that are required by GCA Rules 4.7.10, 4.7.11 and 4.7.12. It argues that any information obtained from these exhibits cannot reasonably form the basis of the Commission's decision whether to approve or reject the GCA application. Though the Commission's decision to approve or reject GCA rates should not be based on the financial exhibits, we disagree with Xcel's proposal to eliminate the filing requirement. At some future time, should there be a substantial change to the GCA rates, it is imperative the Commission have access to a complete understanding of the utility's overall financial status.

h. Peoples suggests additional rules to define separate, fixed supply options. According to Peoples, a definition of "fixed gas cost" should be included in the rules to allow customers a choice of paying for fixed cost gas instead of only "base cost gas and the associated GCA mechanism." We decline to change the rules based on uncertain future possibilities.

i. Peoples also recommends that the last sentence in Rule 4.5 stating, "[I]f net interest is positive, it will be excluded from the calculation of the Deferred Gas Cost." Peoples maintains that it is unfair to include negative interest in the deferred gas cost when it favors the customer and to exclude positive interest from the deferred gas cost when it favors the utility. We disagree with People's recommendation. We have consistently found asymmetrical treatment of interest on under and over-recovery of gas costs to be appropriate. As we stated previously in Decision No. C01-231:

This "asymmetrical" treatment of interest is based on symmetrical principles. Under the GCA rules the utility has an incentive to neither under-forecast as it will not receive interest payments, nor over-forecast as it will pay interest charges. Public Service has a degree of control over its costs through expedited GCA filings, forecasting, and volatility mitigation measures. Customers, on the other hand, have no control over GCA rates. This structure is one of the few incentives in the GCA Rules that causes utilities to strive accurately to match gas purchase and resale prices.

We agree with the OCC that "[b]y mitigating price volatility through this rulemaking docket, the concerns raised by the utilities are mitigated while the underlying principals incorporated in the existing GCA rules remain intact for the benefit of customers.

3. Rule 4.1 Purpose of the GCA

a. In the NOPR, we proposed adding the following sentence to Rule 4.1: "Costs related to gas price volatility risk management for regulated gas supply may be included for recovery through the GCA, if allowed by tariffs, subject to the same regulatory scrutiny and prudence review standard as other gas-related costs." This additional sentence was intended to clarify that costs related to gas price volatility risk management may, under certain circumstances, be included for recovery through the GCA.

b. While the OCC supported this additional language, Peoples and Xcel opposed the revised rule. According to Peoples, the proposed change does little to reduce the prudence risk it feels restricts the utility's gas purchasing efforts. Xcel provided two recommendations with regard to the specific language. First, Xcel proposed that the term "regulated gas supply" be changed to "jurisdictional gas commodity purchases" or "jurisdictional gas supply." Second, it proposed that the phrase "regulatory scrutiny and. . ." be deleted from the proposed sentence. In its reply brief, Xcel also proposed additional language to Rule 4.1 to include language that specifies four types of risk management measures including futures contracts, fixed-for-float swaps, call options and collars.

c. We accept Xcel's recommendations in part and reconfigure the proposed sentence to read as follows: "Costs related to gas price volatility risk management for jurisdictional gas supply may be included for recovery through the GCA, if allowed by tariffs, subject to the prudence review standard." We decline to include specific types of risk management measures here. We see no advantage to tying the rules to specific risk management tools that may require amendment to the rule at some future time.

4. Rule 4.3 Applicability of the GCA

We proposed striking the last sentence of the current rule which states: "Absent a Commission decision, utilities engaged in the provision of Gas Transportation Service shall not be required to calculate a transportation GCA factor." Peoples objected to the proposed deletion of this sentence. According to Peoples, without this sentence, the rule would be unclear and ambiguous. Peoples expressed concern that the removal of the sentence would mean that a utility that offers Gas Transportation Service would be required to calculate a transportation GCA factor. Peoples interpreted the second and third sentences of the rule to allow discretion to apply a GCA factor to a gas utility's Transportation Service. However, according to Peoples, the modified rule could be interpreted to mean that gas utilities have lost that discretion and must apply

the GCA factor to their Transportation Service. We agree with People's argument here and leave the last sentence in Rule 4.3 in place.

5. Rule 5.2 GPP Filing Requirements

No parties opposed our proposed additional sentence to this rule that states: "This filing shall include the docket caption: 'In the matter of the Gas Purchase Plans and Gas Purchase Reports for [utility] for the gas purchase year from July 1, [year] through June 30, [year].'" Therefore, this amendment is incorporated into Rule 5.2.

6. Rule 5.3.3 GPP Exhibit No. 3-Portfolio Management Plan and Rule 6.3.3 GPR Exhibit No. 3-Actual Portfolio Purchase

We proposed the following language to Rule 5.3.3:

"This exhibit shall also include a description and analysis of the options the utility considered or will consider, and the steps the utility has taken or will take to reduce customers' risk of gas price volatility for the Gas Purchase Year. To the extent a utility proposes to use gas price volatility risk management tools, this exhibit shall include a description of the utility's policy for implementing such risk management tools."

No party opposed this change, while the OCC offered its support of this inclusion. According to the OCC, the amended language formalizes the basis the utilities utilize to mitigate gas price volatility to consumers. The OCC further proposes including additional language to Rule 6.3.3. The intent of the additional language is to compute the projected cost of any risk management

tools projected to be implemented by the utility in the upcoming Gas Purchase Year. We adopt, in part, language proposed by the OCC to be included in Rule 6.3.3. Therefore, the following sentence is included as the last sentence in Rule 6.3.3: "This exhibit shall include a detailed itemization of gas price volatility risk management costs, including a projection of such costs, if applicable."

7. Rule 6.1 Purpose of the GPR

We proposed including additional language and amending current language in the rule to clarify the prudence review process by the Commission using information obtained from the GPR. The parties did not oppose the amendments. Xcel suggested additional clarification language in the rule. We decline to amend the rule further and therefore adopt the amendments as proposed in our NOPR.

8. Rule 9 Burden Applicability

Additional language to Rule 9 was proposed in the NOPR, requiring utilities to file direct testimony and exhibits supporting gas cost recovery in a prudence review hearing. We first proposed changing the title of Rule 9 to "Burden of Proof." We then offered the following additions:

The utility shall file its testimony and exhibits supporting gas cost recovery for the Gas Purchase Year at issue, to meet the Prudence Review Standard, Rule 8. The testimony shall be filed in question-and-

answer format, 15 days after the close of the notice period for such hearing.

Although Peoples did not object to the first sentence in the proposed amendment, it did take issue with the requirement that the direct testimony and exhibits must be filed 15 days after the close of the notice period. Peoples requested 45 days in which to file testimony and exhibits. Peoples was also unclear what we meant by "after the close of the notice period for such hearing," and asked for clarification as to what event starts that period of time to commence running.

a. Xcel objected to the inclusion of the proposed language in Rule 9 as unnecessary and burdensome. According to Xcel, all of the information contained in such testimony and exhibits is included in the GPP and GPR to allow the Commission Staff to make an initial determination as to the reasonableness of the utility's purchased gas costs. In the alternative, Xcel proposed its own language as a substitute.

b. We disagree with Xcel's contention here. The additional information that will be gathered from the filed testimony and exhibits will support any information contained in the GPP and GPR and assist Commission Staff in making a determination on the reasonableness of purchased gas costs. We further disagree with Peoples suggestion to increase the time for filing such exhibits and testimony to 45 days. We find that

15 days is sufficient time within which to comply with the amended rule.¹ We do however accept People's proposal to clarify what event starts the period of time to commence running.

c. We therefore further amend the final sentence of Rule 9 to read as follows: "The testimony shall be filed in question-and-answer format, not later than 15 days after the expiration of the intervention period established by the Commission for such hearing." This language should sufficiently clarify when the period begins for filing testimony and exhibits.

9. Rule 7.1 Protective Order and Rule 7.2 Number of Copies to be Filed.

a. The Commission adopted "Rules Relating to the Claim of Confidentiality of Information Submitted to The Colorado Public Utilities Commission" at 4 CCR, 723-16, effective March 2, 1999. These rules eliminated the requirement that parties file motions for entry of protective orders and that the Commission enter protective orders in individual dockets. Our proposed amendments to the confidentiality rules at Rule 7.1 and 7.2 bring the GCA Rules into conformance with 4 CCR, 723-16. In addition to applying 4 CCR, 723-16 to all

¹ The time period from the Commission ruling at open meeting to initiate a prudence review hearing, until the expiration of the intervention period provides the utility additional time to prepare testimony.

filings required by the GCA Rules, we also proposed the following language:

In addition to Rule 4 CCR, 723-16, for each exhibit filed by the utility under Rule 4 CCR, 723-8 as confidential, the utility shall provide, at a minimum, a version of the exhibit with publicly available information. Each publicly available exhibit shall include data that is aggregated to the level where confidentiality is not required, and shall contain adequate information so that the public can understand the exhibit.

Both Xcel and Peoples expressed support for the proposed changes to Rule 7.1 that clarified the Commission's rules relating to the claim of confidentiality of information. Both parties objected to the remainder of the proposed new language in Rule 7.1. While Peoples argued that the proposed language would be difficult to administer fairly, Xcel took the position that the proposed amendments did not go far enough to protect the disclosure of commercially sensitive information that is required to be filed under the GCA Rules. Consequently, Xcel proposed including language in Rule 7.1 that the confidential information in GCA, GPR and GPP filings should carry a presumption against disclosure to any business engaged in the purchase and sale of natural gas for profit.

b. Although we agree with Peoples and Xcel that certain language contained in the proposed amendments to Rule 7.1 could be confusing and difficult to define, we do not concur with Xcel that the rule should carry a presumption against

disclosure. To do so would be in direct contravention to the Colorado Open Records Act and to our own confidentiality rules. We further believe that Rule 16 provides adequate protection to a utility's GPP, GPR and GCA filing. Therefore, the last sentence of Rule 7.1 as proposed in our NOPR is deleted, and Rule 7.1 will be adopted as presented in Attachment A to this order. The determination of what information constitutes "publicly available information" shall be made on a case-by-case basis.

c. Additionally, Rule 7.2 must also be deleted in order to bring GCA Rules into conformance with Rule 16.

10. Rule 4.2 GCA Filing Requirements, Rule 5.2.1 Number of Copies and Other Filing Procedures and Rule 6.2 GPR Filing Requirements.

a. The proposed amendments to Rules 4.2, 5.2.1 and 6.2 clarify procedural matters and further bring the GCA rules into conformance with our Confidentiality Rules. The requirement in the rules that information filed under seal must be accompanied by a motion for protective order in accordance with Rule 7 has been eliminated. As discussed above, we added supplementary language to Rule 6.2 that a utility shall include a statement in its GCA notice that it also filed a Gas Purchase Report for the period specified. We will adopt the amended language in Rules 4.2, 5.2.1 and 6.2 in Attachment A to this order.

b. The proposed rules appended to this decision as Attachment A will be adopted.

II. ORDER

A. The Commission Orders That:

1. The rules appended to this decision as Attachment A are adopted. This order adopting the attached rules shall become final twenty days following the mailed date of this decision in absence of the filing of any applications for rehearing, reargument, or reconsideration. In the event any application for rehearing, reargument or reconsideration to this decision is timely filed, this order of adoption shall become final upon a Commission ruling on any such application, in the absence of further order of the Commission.

2. Within twenty days of final Commission action on the attached rules, the adopted rules shall be filed with the Secretary of state for publication in the next issue of the Colorado Register along with the opinion of the Attorney General regarding the legality of the rules.

3. The finally adopted rules shall also be filed with the Office of Legislative Legal Services within twenty days following issuance of the above-referenced opinion by the Attorney General.

4. The twenty day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this decision.

5. This Order is effective immediately upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 6, 2002.**

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



RAYMOND L. GIFFORD

POLLY PAGE

ATTEST: A TRUE COPY

Bruce N. Smith
Director

JIM DYER

Commissioners

**THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO**

**GAS COST ADJUSTMENT (GCA) RULES
4 CODE OF COLORADO REGULATIONS (CCR) 723-8**

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The purpose of these Rules is to: 1) establish a standardized process that enables gas utilities to reflect changes in the cost of gas commodity and Upstream Services in the rates charged for sales gas and gas transportation service; and 2) establish a standardized process for the review of such costs by the Commission and other interested parties. These Rules are promulgated pursuant to the power to regulate public utilities delegated to the Commission by Article XXV of the Colorado Constitution and by §§ 40-2-108, 40-3-102, 40-3-111, and 40-5-103, C.R.S. These Rules are not intended to restrict management's exercise of reasonable judgment in procuring gas commodity or Upstream Services.

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RULE (4 CCR) 723-8-1. APPLICABILITY.

These Rules shall apply to all gas utilities in the State of Colorado engaged in the provision of sales gas and/or gas transportation services subject to the Commission's jurisdiction under the Public Utilities Law, C.R.S. §40-1-101, *et seq.*

RULE (4 CCR) 723-8-2. OVERVIEW.

These Rules provide instructions for the filing of: 1) Gas Cost Adjustment ("GCA") applications pursuant to Rules 4.1 through 4.8; 2) annual Gas Purchase Plan ("GPP") submittals pursuant to Rules 5.1 through 5.3; and 3) annual Gas Purchase Reports ("GPR") pursuant to Rules 6.1 through 6.3. Utilities subject to these Rules shall make the required filings pursuant to the following schedule:

723-8-2.1 **October 1 Filing Schedule.** Public Service Company of Colorado, K N Energy, Inc., Peoples Natural Gas Company, and Citizens Utilities Company shall file annual GCA applications with an effective date of October 1 with the Commission. Additional GCA applications may also be filed as necessary. The GPR, for the preceding Gas Purchase Year in which a GPP was filed, shall be filed as a separate filing at the same time as the annual GCA application to be effective October 1. The GPP submittal shall be filed annually on or before June 1 for the next Gas Purchase Year beginning July 1.

723-8-2.2 **November 1 Filing Schedule.** Greeley Natural Gas Company, Rocky Mountain Natural Gas Company, Rocky Mountain Natural Gas Division of K N Energy, Inc., Eastern Colorado Utility Company, ComFurT Gas Company, Colorado Natural Gas Company, and any other gas utility shall file annual GCA applications with an effective date of November 1 with the Commission. Additional GCA applications may also be filed as necessary. The GPR, for the preceding Gas Purchase Year in which a GPP was filed, shall be filed as a separate filing at the same time as the annual GCA application to be effective November 1. The GPP submittal shall be filed annually on or before June 1 for the next Gas Purchase Year beginning July 1.

RULE (4 CCR) 723-8-3. DEFINITIONS.

723-8-3.1 Account No. 191. An account under the Federal Energy Regulatory Commission System of Accounts, as required by Rule 25 of the Commission's Rules of Practice and Procedure, used to accumulate actual gas supply costs, and corresponding actual revenues in a given period, such as a Gas Purchase Year, resulting in a net under- or over-recovery to be amortized in the next GCA Effective Period.

723-8-3.2 Base Gas Cost. A rate component, expressed in at least the accuracy of one mil (\$0.001) per Mcf or Dth, used in the calculation of the GCA which reflects the cost of gas commodity and Upstream Services included in the utility's Base Rates for sales gas and gas transportation service.

723-8-3.3 Base Rates. The utility's currently effective rates for sales gas and gas transportation service as authorized by the Commission in the utility's last general rate case.

723-8-3.4 Commission. The Colorado Public Utilities Commission.

723-8-3.5 Current Gas Cost. A rate component of the GCA, expressed in at least the accuracy of one mil (\$0.001) per Mcf or Dth, which reflects the cost of gas commodity and Upstream Service projected to be incurred by the utility during the GCA Effective Period. See Rule 4.7.2

723-8-3.6 Deferred Gas Cost. A rate component of the GCA, expressed in at least the accuracy of one mil (\$0.001) per Mcf or Dth, designed to amortize over the GCA Effective Period the under- or over-recovered gas costs reflected in the utility's Account No. 191 or other appropriate costs for a defined period such as a Gas Purchase Year. See Rule 4.7.3.

723-8-3.7 Dekatherm ("Dth"). A measurement of gas commodity heat content. One Dekatherm is the energy equivalent of 1,000,000 British Thermal Units.

723-8-3.8 Forecasted Design Peak Day Quantity. The total quantity of gas commodity anticipated to be required to meet maximum sales gas and gas transportation service demand on the utility's system on a Peak Day.

723-8-3.9 Forecasted Gas Commodity Cost. The cost of gas commodity, including appropriate adjustments for storage gas injections and withdrawals and exchange gas imbalances, projected to be incurred by the utility during the GCA Effective Period, determined by using Forecasted Gas Purchase Quantity and Forecasted Market Prices.

723-8-3.10 Forecasted Gas Purchase Quantity. The quantity of gas commodity the utility anticipates it will purchase during the GCA Effective Period, based upon the Forecasted Sales Gas Quantity, adjusted for system gas loss, use, or other anticipated variances.

723-8-3.11 Forecasted Market Prices. Index Prices, fixed prices or other gas contracting price options used in the calculation of the Forecast Gas Commodity Cost.

723-8-3.12 Forecasted Sales Gas Quantity. The quantity of gas commodity projected to be sold by the utility during the GCA Effective Period, based upon the Normalized, historic quantity of gas commodity sales, adjusted for anticipated changes.

723-8-3.13 Forecasted Upstream Service Cost. The total cost of Upstream Services projected to be incurred by the utility during the GCA Effective Period.

723-8-3.14 Gas Commodity Throughput. The amount of gas commodity flowing through the utility's jurisdictional natural gas facilities.

723-8-3.15 Gas Cost Adjustment ("GCA"). A gas rate adjustment, filed on an expedited basis, to reflect increases or decreases in gas costs, such as the cost of gas commodity or Upstream Services. See Rules 4.1 through 4.7.

723-8-3.16 GCA Effective Period. The period of time that the GCA rate change is intended to be in effect. See Rule 4.4.

723-8-3.17 Gas Purchase Plan ("GPP"). A submittal with supporting exhibits as prescribed by these Rules which describes the utility's planned purchases of gas commodity and Upstream Services to be used to meet sales gas and gas transportation demand. See Rules 5.1 through 5.3.

723-8-3.18 Gas Purchase Report ("GPR"). A report to be filed with the Commission that contains the exhibits prescribed by these Rules and describes the utility's actual purchases of gas commodity and Upstream Services in order to meet sales gas and gas transportation demand. See Rules 6.1 through 6.3.

723-8-3.19 Gas Purchase Year. A twelve-month period from July 1 through June 30.

723-8-3.20 Gas Transportation Service. The delivery of gas commodity on the utility's pipeline system pursuant to

any of the utility's gas transportation rate schedules on file with the Commission.

723-8-3.21 Index Price. A published figure identifying a representative price of gas commodity available in a geographic area during a specified time interval (i.e., daily, weekly, or monthly).

723-8-3.22 Mcf. One thousand cubic feet of gas. One cubic foot of gas is the amount of gas which occupies a volume of one cubic foot at standard conditions of 14.73 pounds per square inch absolute and 60 degrees Fahrenheit, or as specified in the utility's currently effective tariff.

723-8-3.23 Mil. One-tenth of one cent, (\$0.001).

723-8-3.24 Normalized. The process of adjusting gas quantities to reflect normal historic temperature as defined by the National Oceanic and Atmospheric Administration.

723-8-3.25 Peak Day. A defined period (such as a 24 hour period, or 3 consecutive day average) during which Gas Commodity Throughput is at its maximum level on the utility's system.

723-8-3.26 Receipt Point/Area. That point or group of points in a discrete geographic area, such as a supply basin, hub, or market area, where the utility acquires title to the gas commodity purchased.

723-8-3.27 Sales Gas Service. The jurisdictional, regulated, sale of gas commodity by the utility to customers on the utility's jurisdictional gas distribution system.

723-8-3.28 Service Level. The type or level of gas supply service contracted for by the utility based upon the respective obligations of the supplier to deliver and sell, and the utility to take and purchase gas commodity. For example, a "base load" Service Level would require the supplier to deliver and sell gas at a specified contract quantity for a specified period of time; whereas a "swing"

Service Level would require the supplier to deliver and sell quantities of gas within a range of minimum and maximum contract quantities for a specified period of time.

723-8-3.29 Upstream Services. Includes all transmission, gathering, compression, balancing, treating, processing, storage and like services performed by others under contract with the utility for the purpose effectuating delivery of gas commodity to the utility's jurisdictional natural gas facilities.

RULE (4 CCR) 723-8-4. GAS COST ADJUSTMENTS.

723-8-4.1 **Purpose of the GCA.** The purpose of the GCA is to enable utilities, on an expedited basis, to reflect increases or decreases in gas costs, such as the cost of the gas commodity and Upstream Services, to be recovered in addition to the Base Gas Cost component of the utility's currently effective Base Rates. Costs related to gas price volatility risk management for jurisdictional gas supply may be included for recovery through the GCA, if allowed by tariffs, subject to the prudence review standard.

723-8-4.2 **GCA Filing Requirements.** GCAs shall be filed in the form of an application that complies with Rule 41(e) of the Commission's Rules of Practice and Procedure. Specific exhibits or other information may be filed under seal, ~~accompanied by a motion for protective order in accordance with Rule 7.~~ An original and ~~15~~ 10 copies of the GCA application, including Exhibits specified in Rule 4.7, shall be filed pursuant to the schedule provided in Rules 2.1 through 2.2. GCA applications shall be filed not less than two weeks in advance of the proposed effective dates to allow for adequate investigation by the Commission. Exhibits 2, 3, 5 and 6 shall also be provided electronically (on a DOS-formatted 3½-inch computer diskette, or other acceptable method), utilizing a spreadsheet software that is compatible

with software being used by the Commission Staff. If the projected gas costs, such as the cost of gas commodity or Upstream Services, changes from those used to calculate the currently effective Current Gas Cost, or if a utility's Deferred Gas Cost balance increases or decreases sufficiently, the utility may file an application to revise its currently effective GCA to reflect such changes, provided that the resulting change to the GCA equates to at least one cent (\$0.01) per Mcf or Dth.

723-8-4.3 **Applicability of the GCA.** The GCA shall be applied to all utility sales gas rate schedules. Utilities engaged in the provision of Gas Transportation Service may calculate a GCA that may be applied to gas rate schedules in order to reflect appropriate costs, such as the cost of pipeline balancing or back-up supply or other similar services acquired on behalf of gas transportation customers. Absent a Commission decision, utilities engaged in the provision of Gas Transportation Service shall not be required to calculate a transportation GCA factor.

723-8-4.4 **GCA Effective Period.** The period during which the Gas Cost Adjustment is proposed to be in effect before being superseded upon the effective date of the next scheduled GCA. For annual GCAs, the GCA expected Effective Period will be the 12-month period beginning October 1 or November 1, as the case may be, pursuant to the schedule prescribed in Rules 2.1 and 2.2.

723-8-4.5 **Interest on Under- or Over-Recovery.** The amount of net interest accrued on the average monthly balance in Account No. 191 (whether positive or negative), determined by multiplying the monthly balance by an interest rate equal to the Commission authorized customer deposit rate for gas utilities. If net interest is positive, it will be excluded from the calculation of the Deferred Gas Cost.

723-8-4.6 **Calculation of the GCA.** The GCA shall be calculated to at least the accuracy of one mil (\$0.001) per Mcf or Dth pursuant to the following formula: **GCA = (Current Gas Cost + Deferred Gas Cost) - (Base Gas Cost).**

723-8-4.7 **Contents of GCA Applications.** All GCA applications shall contain the exhibits specified in Rules 4.7.1 through 4.7.9. Exhibits specified in Rules 4.7.10 through 4.7.12 shall be filed with the annual GCA application specified in Rules 2.1 and 2.2. These exhibits shall be organized in a manner that specifically references, and responds to, the requirements contained in each of these Rules. Cross-referenced and footnoted work-papers fully explaining the amounts shown in each exhibit shall also be provided. Additionally, all GCA applications shall cross-reference the docket numbers of the associated GPP submittals.

723-8-4.7.1 **GCA Exhibit No. 1 - GCA Summary.** This exhibit shall illustrate: 1) the impact the utility's currently effective GCA has on each sales gas customer class and, when applicable, the gas transportation rate class from a total dollar and mil (\$0.001, minimum) per Mcf or Dth basis; 2) the impact the utility's proposed GCA has on each sales gas customer class and, when applicable, gas transportation rate class on a total dollar and mil (\$0.001, minimum) per Mcf or Dth basis, and 3) the percent change in total bill for a customer of average usage for each sales gas customer class. This percent change in total bill calculation shall include an itemization of the monthly service and facility charge, base rates and GCA commodity components, and all other tariffed charges on the customer bill.

723-8-4.7.2 **GCA Exhibit No. 2 - Current Gas Cost Calculation.** This exhibit shall contain the calculation of the Current Gas Cost and shall provide month-by-month information with respect to the Forecasted Gas Commodity Cost,

Forecasted Gas Purchase Quantity, Forecasted Market Prices, Forecasted Upstream Service Cost, and Forecasted Sales Gas Quantity. Current Gas Cost shall be calculated at least to the accuracy of the nearest mil (\$0.001) per Mcf or Dth according to the following formula: **Current Gas Cost = (Forecasted Gas Commodity Cost + Forecasted Upstream Service Cost) / Forecasted Sales Gas Quantity.** All such information shall correspond to, and be presented in a format comparable with, the information forecasted in the utility's GPP submittal, as required pursuant to Rules 5.3.1 through 5.3.4.

723-8-4.7.3 **GCA Exhibit No. 3 - Deferred Gas Cost Calculation.** This exhibit shall contain the calculation of Deferred Gas Cost and shall provide month-by-month information detailing the activity in Account No. 191, Interest on Under- or Over-Recovery, and all other included gas costs. Deferred Gas Cost shall be calculated as the aggregate total of the under- or over-recovered gas costs reflected in the utility's Account No. 191, or other approved gas costs, recorded at the close of business for each month of the period at issue, such as the previous Gas Purchase Year, plus Interest on Under- or Over-Recovery (if net amount is negative), divided by Forecasted Sales Gas Quantity. Deferred Gas Cost shall be calculated at least to the accuracy of the nearest mil (\$0.001) per Mcf or Dth. Each cost a utility desires to be included in the Deferred Gas Cost calculation shall be itemized and clearly identified and itemized for applicability to the period at issue. Annual GCA applications, filed pursuant to the schedule provided in Rules 2.1 through 2.2, shall reflect actual deferred costs for the most recent period ending June 30, or as otherwise approved by the Commission.

723-8-4.7.4 **GCA Exhibit No. 4 - Base Gas Cost.** This exhibit shall contain the tariff pages which illustrate the Base Gas Cost component of the utility's currently

effective Base Rates for Sales Gas Service and, where applicable, Gas Transportation Service.

723-8-4.7.5 **GCA Exhibit No. 5 - Forecasted Gas Transportation Demand.** This exhibit applies only to utilities that have a GCA component within their authorized rates for Gas Transportation Service. This exhibit shall provide the following information: 1) a forecast of Gas Commodity Throughput attributable to Gas Transportation Service for each month of the GCA Effective Period; and 2) a forecast of firm backup supply demand quantities under the utility's firm Gas Transportation Service agreements for each month of the GCA Effective Period. All demand forecast information shall be provided on an Mcf or Dth basis.

723-8-4.7.6 **GCA Exhibit No. 6 - Current Gas Cost Allocations.** This exhibit shall fully explain and justify the methodology used to: 1) allocate the costs associated with the gas commodity and Upstream Services to each specific sales gas customer class and, where applicable, gas transportation customer rate class; and 2) derive the amount of the GCA applied to each specific sales gas customer class and, where applicable, gas transportation customer rate classes.

723-8-4.7.7 **GCA Exhibit No. 7 - Customer Notice.** This exhibit shall provide the form of notice to customers and the public concerning the utility's proposed GCA change as required pursuant to the Commission's Rules of Practice and Procedure. The customer notice for each sales gas customer class shall include: 1) current and proposed rates, 2) percentage changes for an average annual total bill, and 3) a projected peak winter month total bill.

723-8-4.7.8 **GCA Exhibit No. 8 - Components of Delivered Gas Cost.** This exhibit shall detail the itemized components of delivered gas cost to the customer (rate), per Rule 4 CCR 723-4-10 (e).

723-8-4.7.9 **GCA Exhibit No. 9 - Proposed Tariff.**

This exhibit shall contain the tariff sheets proposed by the utility to reflect the proposed GCA change.

723-8-4.7.10 **GCA Exhibit No. 10 - Rate Base.**

This exhibit shall calculate the used and useful rate base assets employed by the utility for Commission-regulated gas operations for the most recently completed twelve-month period ending June 30. The rate base shall reflect the regulatory principles authorized by the Commission in the utility's most recent general rate case, including all required pro forma adjustments. An explanation of all pro forma adjustments shall be provided.

723-8-4.7.11 **GCA Exhibit No. 11 - Net Operating**

Earnings. This exhibit shall calculate the utility's net operating earnings for Commission-regulated gas operations during the most recently completed twelve-month period ending June 30. The calculation of net operating earnings shall reflect the regulatory principles authorized by the Commission in the utility's most recent general rate case, including all required pro forma adjustments. An explanation of all pro forma adjustments shall be provided.

723-8-4.7.12 **GCA Exhibit No. 12 - Capital**

Structure and Cost of Capital. This exhibit shall calculate the following information for the most recently completed twelve-month period ending June 30: 1) the utility's capital structure for Commission-regulated gas operations; 2) the utility's cost of long-term debt and preferred equity; 3) the utility's cost of common equity; and 4) the utility's weighted average cost of capital. The calculation of capital structure and the cost of various components of weighted average cost of capital shall reflect the regulatory principles authorized by the Commission in the utility's most recent general rate case, including all required pro forma

adjustments. An explanation of all pro forma adjustments shall be provided.

RULE (4 CCR) 723-8-5. GAS PURCHASE PLANS.

723-8-5.1 **Purpose of the GPP.** The purpose of the GPP is to describe the utility's plan for purchases of gas commodity and Upstream Services in order to meet the forecasted demand for Sales Gas Service and Gas Transportation Service during each month of the Gas Purchase Year. In the GPP, the utility shall submit to the Commission the utility's: 1) forecasted quantity of gas to be purchased over the ensuing Gas Purchase Year for each Service Level; 2) forecasted pricing for each Receipt Point/Area; and 3) portfolio management plan.

723-8-5.2 **GPP Filing Requirements.** The GPP shall be filed as a "submittal for determination of completeness of GPP". This filing shall include the docket caption: "In the matter of Gas Purchase Plans and Gas Purchase Reports for [utility] for the gas purchase year from July 1, [year] through June 30, [year]."

723-8-5.2.1 **Number of Copies and Other Filing Procedures.** An original and 10~~15~~ copies shall be filed. Specific exhibits or other information may be filed under seal, ~~accompanied by a motion for protective order in accordance with Rule 7.~~ Under this filing provision: 1) a docket number shall be assigned, 2) a hearing on the substance or approval of the GPP shall not be held, 3) interventions by interested parties shall not be entertained, 4) the filing of testimony and other exhibits shall not be required, and discovery shall not be permitted.

723-8-5.2.2 **Review Timelines.** Staff of the Commission shall review the pleading and provide written notification of any deficiencies to the utility within 15 calendar days. The utility shall file the requested

information, or a written statement indicating that the utility believes the additional information is not required, within 15 calendar days after the date of the Staff notification. Upon receipt of final information, or written statement, Staff will place the submittal on the agenda for consideration at the next available Commissioners' weekly meeting. If the Commission fails to mail its determination on completeness on the status of the submittal within 15 calendar days of receipt of final information or written statement, the submittal shall automatically be deemed complete. This submittal shall be reviewed solely for completeness, *i.e.*, compliance with the information requirements of these Rules. The Commission shall not render a decision approving or disapproving the substantive information contained in this filing.

723-8-5.2.3 Utilities with Multiple GCA Rate Areas. A utility with more than one GCA rate area in Colorado must provide a separate GPP for each GCA rate area. These GPPs may be filed in a single submittal.

723-8-5.2.4 GPP No Longer Reflects Market Conditions. To the extent that the currently effective GPP no longer reflects market conditions or the utility's planned purchasing practices, the utility shall file a new GPP no later than 30 days after filing the GPR.

723-8-5.3 Contents of the GPP. A GPP submittal shall contain the exhibits specified in Rules 5.3.1 through 5.3.4. These exhibits shall be organized in a manner that specifically references, and responds to, the requirements contained in each of these Rules. Cross-referenced and footnoted work-papers fully explaining the amounts shown in each exhibit shall also be provided.

723-8-5.3.1 GPP Exhibit No. 1 - Gas Purchase Schedule. This exhibit shall provide a forecast of the

specific gas commodity supplies, segregated by Receipt Point/Area, that the utility plans to purchase in order to meet forecasted sales gas demand during each month of the applicable Gas Purchase Year.

723-8-5.3.2 **GPP Exhibit No. 2 - Market Pricing**

Description. For each specific Receipt Point/Area, this exhibit shall provide an estimate of applicable ranges of forecast Index Prices, short-term fixed prices (one-year, or other appropriate term), and other relevant pricing options, as applicable to the portfolio management plan described in Rule 5.3.3.

723-8-5.3.3 **GPP Exhibit No. 3 - Portfolio**

Management Plan. This exhibit shall provide a plan stating how the utility plans to manage its gas supply portfolio for the Gas Purchase Year. This exhibit shall also include a description and analysis of the options the utility considered or will consider, and the steps the utility has taken or will take to reduce customers' risk of gas price volatility for the Gas Purchase Year. To the extent a utility proposes to use gas price volatility risk management tools, this exhibit shall include a description of the utility's policy for implementing such risk management tools.

723-8-5.3.4 **GPP Exhibit No. 4 - Forecasted**

Upstream Service Costs. This exhibit shall provide the following information for each month of the applicable Gas Purchase Year: 1) an itemized list of all Upstream Services, by provider and service level or rate schedule, and associated costs the utility expects to purchase in order to meet sales gas and gas transportation demand; 2) a comparison of Forecasted Design Peak Day Quantity with all sources of delivery capacity available to the utility, including forecasted Upstream Services, forecasted gas commodity to be

purchased directly into the utility's pipeline system (i.e., city gate purchases) on a firm basis, and the utility's own gas storage facilities; 3) a comprehensive explanation of the utility's forecasted level of planned Upstream Service purchases; and 4) forecasted capacity release volumes and revenues for Upstream Services.

RULE (4 CCR) 723-8-6. GAS PURCHASE REPORTS.

723-8-6.1 **Purpose of the GPR.** The purpose of the GPR is to present the utility's actual purchases of gas commodity and Upstream Services during each month of the Gas Purchase Year.

The Commission shall use information provided in the GPR ~~shall be used by the Commission to~~ make an initial evaluate evaluation of the prudencey of the utility's actual costs of purchasing gas commodity and Upstream Services during the Gas Purchase Year. If the Commission decides to initiate a prudence review hearing, it shall do so by written order within 120 days of the filing of the GPR. The prudence review may result in tariff or rate changes that could affect different classifications of customers.

723-8-6.2 **GPR Filing Requirements.** A GPR shall be filed under the previous year's GPP Docket number (filed approximately 15 months previously), as a separate filing, at the same time as the annual GCA application pursuant to the schedule provided in Rules 2.1 and 2.2. An original and 1015 copies shall be filed. Specific exhibits or other information may be filed under seal, ~~accompanied by a motion for protective order in accordance with Rule 7.~~ The utility shall include a statement in its GCA notice that it also filed a Gas Purchase Report for the period specified.

723-8-6.3 **Contents of the GPR.** A GPR shall contain the exhibits specified in Rules 6.3.1 through 6.3.4. These

exhibits shall be organized in a manner that specifically references, and responds to, the requirements contained in each of the these Rules. Cross-referenced and footnoted work-papers fully explaining the amounts shown in each exhibit shall also be provided. All underlying support documentation and work papers shall be made available.

723-8-6.3.1 **GPR Exhibit No. 1 - Actual Gas Commodity Purchases.** This exhibit shall provide, in a format comparable to the information provided pursuant to Rule 5.3.1, the quantities of, and actual invoice costs of, specific gas commodity supplies, segregated by Receipt Point/Area which the utility purchased in order to meet actual sales gas and gas transportation demand during the Peak Day and for each month of the Gas Purchase Year.

723-8-6.3.2 **GPR Exhibit No. 2 Description of Actual Market Prices.** This exhibit shall provide, in a format comparable to the information provided pursuant to Rule 5.3.2, actual Index Prices, short-term fixed prices (one-year, or other appropriate term), and other relevant pricing options for each specific receipt point area, as applicable to the portfolio management plan described in rules 5.3.3 and 6.3.3

723-8-6.3.3 **GPR Exhibit No. 3 - Actual Portfolio Purchases.** This exhibit shall provide, in a format comparable to the information provided pursuant to Rule 5.3.3, a comparison of the utility's portfolio management plan and the results actually achieved through the implementation of this plan or modification thereto, in order to demonstrate the prudence of actual portfolio purchases, in accordance with the standard of review specified in Rule 8. This exhibit shall include a detailed itemization of gas price volatility risk management costs, including a projection of such costs, if applicable.

723-8-6.3.4 **GPR Exhibit No. 4 - Actual Upstream Service Costs.** This exhibit shall provide, in a format comparable to the information provided pursuant to Rule 5.3.4, the following information for each month of the Gas Purchase Year: 1) an itemized list of the Upstream Services the utility actually purchased in order to meet sales gas and gas transportation demand; 2) an itemized listing of the specific costs the utility incurred to purchase Upstream Services; 3) actual Peak Day demand experienced by the utility during the Gas Purchase Year; 4) an itemized list of capacity release volumes and revenues; and 5) an explanation of, and justification for, any material deviations from the Upstream Services forecasted to be purchased by the utility in its GPP pursuant to the requirements of Rule 5.3.4.

RULE (4 CCR) 723-8-7. CONFIDENTIALITY.

~~723-8-7.1 **Protective Order.** A Commission protective order in the same form as contained in 4 CCR 723-10, or as otherwise modified by the Commission, shall govern access to all confidential information contained in the utility's GCA application filed pursuant to Rules 4.1 through 4.7; the utility's GPP filed pursuant to Rules 5.1 through 5.3; and the utility's GPR filed pursuant to Rules 6.1 through 6.3.~~The Commission's Rules relating to the claim of confidentiality of information, 4 CCR, 723-16 shall apply to all filings required by these Gas Cost Adjustment Rules. In addition to Rule 4 CCR, 723-16, for each exhibit filed by the utility under Rules 4 CCR-723-8 as confidential, the utility shall provide, at a minimum, a version of the exhibit with publicly available information.

~~723-8-7.2 **Number of Copies to be Filed.** An original plus six copies of the specific exhibits or other information~~

~~requested to be filed as confidential must be filed under seal, in individual envelopes, clearly marked with the applicant's name, caption of the application and Docket number. Contemporaneously therewith, applicant shall file an original plus 15 copies of a motion for protective provisions concerning the material applicant holds as confidential.~~

RULE (4 CCR) 723-8-8. PRUDENCE REVIEW STANDARD.

For purposes of GCA recovery, the standard of review to be utilized by the Commission in assessing the action (or lack of action) of a utility in a specific Gas Purchase Year shall be whether the action (or lack of action) of a utility was reasonable in light of the information known, or which should have been known, at the time of the action (or lack of action).

RULE (4 CCR) 723-8-9. BURDEN APPLICABILITY OF PROOF.

If the Commission elects to hold a hearing, the utility shall have the burden of proof and the burden of going forward to establish the reasonableness of actual gas commodity and Upstream Service costs incurred during the review period. The utility shall file its testimony and exhibits supporting gas cost recovery for the Gas Purchase Year at issue, to meet the Prudence Review Standard, Rule 8. The testimony shall be filed in question-and-answer format, not later than 15 days after the expiration the intervention period established by the Commission for such hearing.

RULE (4 CCR) 723-8-10 MONITORING OF ACCOUNT NO. 191 BALANCE.

Each utility shall monitor the net under- or over-recovery balance in Account No. 191 on a monthly basis. On a quarterly basis, or as otherwise established individually for a utility, each utility shall provide a report to the Commission within 30 days of the end of each quarter stating

the Account No. 191 balance calculation for each rate area. Reports shall include the Account No. 191 balance information specified in Rule 4.7.3 (GCA Exhibit 3) and shall be filed under one common docket number, established by the Commission to receive Account 191 No. balance filings from all utilities. In addition, if the monthly change in the Account No. 191 balance (whether positive or negative) for any GCA rate area exceeds 50% of the monthly average of actual gas purchase costs for the twelve months prior to the month at issue for the GCA rate area, the utility shall provide a written explanation to the Commission within 30 days of the end of the month at issue. The explanation shall detail the reason for any price and volume variance from the gas purchase forecast. In addition, the explanation shall identify any corrective action that the utility is pursuing. If the utility management believes no corrective action is necessary, the explanation should explain why corrective action is not necessary.

RULE (4 CCR) 723-8-11. GENERAL WAIVER PROVISION.

Utilities may seek a waiver of any provision contained herein by filing an application pursuant to the Commission's Rules of Practice and Procedure.