

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

**PART 3
RULES REGULATING ELECTRIC UTILITIES**

4 CCR 723-3

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BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to set forth rules describing the service, including steam service, to be provided by jurisdictional electric utilities and master meter operators to their customers, and describing the manner of regulation over such utilities, master meter operators, and the services they provide. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, flexible regulation, cost allocation between regulated and unregulated operations, recovery of costs, small power producers and cogeneration facilities, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-4-101, 40-4-106, 40-4-108, 40-4-109, and 40-5-103, C.R.S.

GENERAL PROVISIONS

3000. Scope and Applicability.

- (a) All rules in this Part 3, the "3000" series, shall apply to all jurisdictional electric utilities and electric master meter operators, and to all Commission proceedings and operations concerning electric utilities or electric master meter operators providing electric service, unless a specific statute or rule provides otherwise.
- (b) The following rules in this Part 3 shall apply to all electric utilities providing steam service and to all Commission proceedings and operations concerning electric utilities providing steam service, unless a specific statute or rule provides otherwise:
 - (I) Rule 3002(d), (g), and (j) concerning the filing of applications to amend steam tariffs on less than statutory notice, for flexible regulation, and for approval of a refund plan;

- (II) Rule 3005(b) concerning steam tariffs filed with the Commission;
- (III) Rule 3006(a), (b), and (c) concerning the reporting to the Commission of total gross operating revenues received by an electric utility from its steam service, and the filing of an annual report with the Commission on or before April 30 of each year regarding an electric utility's steam service;
- (IV) Rule 3100 concerning the contents of an application seeking approval by an electric utility to exercise steam franchise rights;
- (V) Rule 3102 concerning the contents of an application to transfer steam assets to, or to merge with, another entity;
- (VI) Rule 3103 concerning the requirement that an electric utility keep its current steam tariffs, contracts, privileges, contract forms, and steam service agreements on file with the Commission and available for public inspection at the utility's local office;
- (VII) Rule 3104 concerning the procedure for filing new or changed steam tariffs;
- (VIII) Rule 3105 concerning the requirements of advice letters;
- (IX) Rule 3109 concerning the contents of applications and the procedure for flexible regulation;
- (X) Rule 3204 concerning the reporting of accidents to the Commission;
- (XI) Rule 3400 concerning billing information to be included on bills for steam service;
- (XII) Rule 3404 concerning information to be provided to customers when any change is proposed or made to any term or condition of steam service that will affect the quality of service;
- (XIII) Rule 3406(a), (b), and (d) concerning discontinuance of steam service;
- (XIV) Rule 3407(a), (b)(I) - (III), (b)(VI) - (X), and (g) concerning discontinuance of steam service;
- (XV) Rule 3408(a), (b)(I), and (b)(IV) concerning the restoration of steam service; and
- (XVI) Rule 3409(a) concerning the contents of applications for approval of refund plans.

3001. Definitions. The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise:

- (a) "Average error" means the arithmetic average of the percent registration at light load and at heavy load, giving the heavy load registration a weight of four and the light load registration a weight of one.
- (b) "CEAF" means the Colorado Energy Assistance Foundation, the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.
- (c) "Check-meter" means a meter or other composite measurement device, used by a master meter operator who is exempt from rate regulation, to determine usage of those served.
- (d) "Cost allocation manual" means the document filed by a utility that describes, explains, and reflects the policies, procedures, and cost allocation and assignment methods the utility uses to segregate and account for financial elements between regulated and unregulated services, between state, interstate, and multi-state operations, and between jurisdictional service offerings.
- (e) "Creep" means that with all load wires disconnected, a meter's moving element makes one complete revolution in 10 minutes or less.
- (f) "Distribution extension" is any construction of distribution facilities, including primary and secondary distribution lines, transformers, service laterals, and appurtenant facilities (excepting meters and meter installation facilities) necessary to supply service to additional customers.
- (g) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area and substations constructed under existing lines to transform electricity to a distribution voltage, regardless of voltage.
- (h) "Financial elements" means all balance sheet and income statement items, for example, revenues, expenses, taxes, and investment and associated reserves.
- (i) "Full cost accounting" means the costs derived from the process of allocating and assigning the total historical costs recorded in the utility's accounting books and records, to individual products or services using cost accounting, engineering, and economic standards. Full cost accounting also includes a return on investment.
- (j) "Heavy load" means at least 60 percent, but not more than 100 percent of the nameplate-rated capacity of a meter.

- (k) "Light load" means approximately 5 to 10 percent of the nameplate-rated capacity of a meter.
- (l) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or discontinue utility service. If the utility does not operate any office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or discontinue utility service in Colorado.
- (m) "Main service terminal" means the point at which the utility's service connections terminate, connecting with the customer's wiring, beyond which the utility has no responsibility.
- (n) "Master meter" means the meter or other composite measurement device used for billing purposes by a regulated utility.
- (o) "Master meter operator" means a person who purchases electric service from a regulated utility for the purpose of delivery to end users, the aggregate usage for which is measured by a master meter.
- (p) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (q) "Regulated service" means any service, product line, or other business activity that is exclusively offered as a public utility service as defined in Title 40, Articles 1 to 7, C.R.S.
- (r) "Rotating standard" means a portable meter used for testing service meters.
- (s) "Security" means any stock, bond, note, or other evidence of indebtedness with a maturity date of more than 12 months (other than stocks) after the date of issuance, the proceeds which are proposed to be used for the following purposes: acquisition of property; construction, completion, extension or improvement of facilities; improvement or maintenance of service; discharge or lawful refunding of obligations; reimbursement of monies actually expended for these purposes from income, or from any other monies not secured by or obtained from the issuance of securities within 5 years before the filing of an application for approval with the Commission; or any other purpose authorized by the Commission.
- (t) "Service connection" is that point on the customer's premises/facilities where a point of delivery of power between the utility and the customer is established. Normally, this is the point where the utility's electric conductors are physically connected to the customer's electric conductors.
- (u) "Transmission extension" is any construction of transmission facilities and all appurtenant facilities including meter

installation facilities (except meters) extending from the utility's transmission system necessary to supply transmission service to an additional customer or customers.

- (v) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities in the area and related substation facilities.
- (w) "Unregulated service" means any service, product line or other business activity that is not exclusively offered as a public utility service as defined in Title 40, Articles 1 to 7, C.R.S.
- (x) "Utility" means an electrical corporation as provided in § 40-1-103(1) (a), C.R.S.

3002. Applications. An electric utility may seek Commission action regarding any of the following matters through the filing of an appropriate application:

- (a) For the issuance or extension of a certificate of public convenience and necessity, as provided in rule 3100.
- (b) To amend a certificate of public convenience and necessity, as provided in rule 3101.
- (c) To transfer a certificate of public convenience and necessity, assets, or stock, or to merge a utility with another entity, as provided in rule 3102.
- (d) To amend a tariff on less than statutory notice, as provided in rule 3104.
- (e) For approval of a cost assignment and allocation manual, as provided in rule 3503.
- (f) For approval of the issuance, renewal, extension, or assumption of any security, or the creation of any lien, as provided in rule 3108.
- (g) For flexible regulation, as provided in rule 3109.
- (h) For approval of meter and equipment testing practices, as provided in rule 3303.
- (i) For exemption of a master meter operator from rate regulation, as provided in rule 3307.
- (j) For approval of refund plan, as provided in rule 3409.
- (k) For any other matter provided by statute or rule but not specifically described in this rule.

3003. [Reserved].

3004. Disputes. Each utility shall make a full and prompt investigation of all disputes with its customers concerning jurisdictional service, which are initiated either directly with the utility or through the Commission. Each utility shall keep a record of all written disputes, which shall show the name and address of the customer, the date and character of the issue, and the adjustment or disposition made thereof. This record shall be open at all times to the inspection of the duly authorized representatives of this Commission, and shall be retained by the utility for a period of two years.

3005. Records.

- (a) Every electric utility shall maintain required records, available for public inspection at its principal place of business during regular business hours, as follows:
 - (I) Records concerning disputes under rule 3004.
 - (II) Records concerning interruptions of service under rule 3203.
 - (III) Service voltage measurements made pursuant to rule 3202(a), for one year.
 - (IV) Records concerning test equipment under rule 3303.
 - (V) Records concerning meters under rule 3305 and 3306.
 - (VI) Customer billing records under rule 3401(b).
- (b) All tariffs filed with the Commission and applying to Colorado rate areas shall be on file at each local office of the utility.
- (c) Each electric utility shall maintain its books of account and records in accordance with the provisions of 18 C.F.R. Part 101, amended as of April 1, 1999. A utility must maintain its books of accounts and records separately from those of its affiliates.
- (d) Notwithstanding section (c) of this rule, a rural electric cooperative may not use the FERC Uniform System of Accounts where that system does not apply for the recording of certain financial and operating transactions of the cooperative, and where accounts are not provided in the FERC System of Accounts. A rural electric cooperative that does not use the FERC accounting system shall use the accounting required of borrowers by the Rural Utilities Service (RUS) or its successor agency.
- (e) Each electric utility shall preserve its records in accordance with the provisions of 18 C.F.R. Part 125, amended as of April 1, 2001.

3006. Reports. Each utility shall provide reports to the Commission as follows:

- (a) Each utility shall file with the Commission, on or before April 30th of each year, an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility. If the Commission grants the utility an extension of time to file the annual report, the utility shall nevertheless file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year. Unless otherwise approved by the Commission, depreciation for book purposes shall be determined by applying the straight-line method of depreciation.
- (b) If a utility publishes an annual report or an annual statistical report to stockholders, other security holders or members, or receives an annual certified public accountant's report of its business, it must file one copy with the Commission within 30 days after publication or receipt of such report.
- (c) Sworn and verified reports relating to deposits and refunds as required by Rules 3402(i) and 3409(c).
- (d) [Cost assignment and allocation--Reserved].
- (e) [Least cost planning-Reserved].
- (f) Such special reports as the Commission may require.

3007. [Reserved].

3008. Incorporation by Reference.

- (a) The Commission incorporates by reference the April 1, 1999 edition of 18 C.F.R. Part 101 regarding the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. No later amendments to or editions of 18 C.F.R. Part 101 are incorporated into these rules. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Chief of Utilities, Colorado Public Utilities Commission, Office Level 2, 1580 Logan Street, Denver, Colorado 80203. The material incorporated by reference may be examined at any state publications depository library.
- (b) The Commission incorporates by reference the April 1, 2001 edition of 18 C.F.R. Part 125 regarding the Preservation of Records of Public Utilities and Licensees. No later amendments to or editions of 18 C.F.R. Part 125 are incorporated into these

rules. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Chief of Utilities, Colorado Public Utilities Commission, Office Level 2, 1580 Logan Street, Denver, Colorado 80203. The material incorporated by reference may be examined at any state publications depository library.

- (c) The Commission incorporates by reference the August 2001 edition of the National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers on August 1, 2001 and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Chief of Utilities, Colorado Public Utilities Commission, Office Level 2, 1580 Logan Street, Denver, Colorado 80203. The material incorporated by reference may be examined at any state publications depository library.

OPERATING AUTHORITY

3100. Certificate Applications. An application for the issuance of a certificate of public convenience and necessity, including authority for approval of the exercise of franchise rights, must include all of the following:

- (a) The applicant's name and complete physical and mailing addresses.
- (b) The trade name under which the applicant's operations are being or will be conducted.
- (c) If the applicant is a corporation: a statement that the applicant is a corporation; the name of the state in which it is incorporated; the location of its principal office, if any, in Colorado; the names of its directors, officers, and Colorado agent for service; and a copy of its Articles of Incorporation or Charter.
- (d) If the applicant is an out-of-state corporation: a copy of the current authority qualifying it to do business in Colorado. If such authority is not available at the time of the application, the applicant shall so state, shall acknowledge that the application will not be granted without the authority, and shall file the authority with the Commission as soon as possible.
- (e) If the applicant is a partnership: the names and addresses of all general and limited partners, and a copy of the partnership agreement establishing the partnership, including subsequent amendments, if any.

- (f) The name, address, and phone number of the applicant's representative to whom all inquiries concerning the application may be made.
- (g) A statement describing the authority sought, or franchise rights proposed to be exercised. The statement shall include a description of the type of utility service to be rendered and a description of the area sought to be served, together with a map of the area. The statement also shall include a description of applicant's existing operations and general service area.
- (h) A statement describing in detail the extent to which the applicant is affiliated with any other company and the extent to which the applicant, or any person affiliated with applicant, holds authority duplicating in any respect the authority sought.
- (i) A copy of a feasibility study for areas previously not served, which shall at least include estimated investment, income, and expense. An applicant may request that balance sheets, income statements, and statements of retained earnings be submitted in lieu of a feasibility study.
- (j) A copy of the applicant's most recent balance sheet, covering a period ending not earlier than six months before the date of the filing of the application.
- (k) A statement of income and of retained earnings for the same time period as the balance sheet referred to in paragraph (j) of this rule.
- (l) A statement of the names of public utilities and other entities of like character providing similar service in or near the area involved in the application.
- (m) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.
- (n) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.
- (o) Where the application is to exercise franchise rights: a certified copy of the franchise ordinance; proof of publication, adoption, and acceptance by the applicant; a statement as to the number of customers served or to be served and the population of the city or town; and any other pertinent information.
- (p) A statement indicating the town or city where the applicant prefers any hearing regarding the application to be held, as well as any alternative choices.

- (q) A statement indicating the applicant's understanding that the mere filing of the application does not, by itself, constitute authority to operate.
- (r) A verified statement or affidavit, signed by an officer, partner, or owner, as applicable, who is authorized to act on behalf of the applicant, stating that the contents of the application and supporting documentation are true, accurate, and correct.

3101. Certificate Amendments.

- (a) Except as provided in paragraph (b) of this rule, an application to amend a certificate of public convenience and necessity, or to change, extend, curtail, or abandon, or discontinue any service or facility without equivalent replacement, must contain all of the information required under rule 3100.
- (b) For applications to curtail or abandon any service or facility, or for applications to in any manner restrict a certificate of public convenience and necessity:
 - (I) The applicant shall indicate the requested effective date for the curtailment, abandonment, or restriction.
 - (II) The applicant's response to rule 3100(g) shall contain a statement describing the curtailment, abandonment, or restriction sought. The statement shall include maps, as applicable. The statement shall also include a description of the applicant's existing operations and general service area.
 - (III) The applicant need not respond to rules 3100(h) and (i).
 - (IV) The applicant's response to rule 3100(m) shall contain a statement that the applicant understands it must present evidence at the hearing showing how the public interest will be affected by the grant of the application.
 - (V) The applicant's response to rule 3100(q) shall contain a statement indicating the applicant's understanding that the mere filing of the application does not, by itself, constitute authority to curtail or abandon any service or facility, or to restrict a certificate of public convenience and necessity.
 - (VI) In addition to the notice requirements of the Rules Regulating Practice and Procedure, the applicant shall prepare a written notice as provided in subparagraph (VII) of this paragraph and shall mail or deliver the notice at least 30 days before the application's requested effective date to each of the applicant's affected customers. If no customers would be affected by the grant of the application, the notice shall be mailed to the Board of

County Commissioners of each affected county, and to the mayor of each affected city, town, or municipality.

(VII) The notice of subparagraph (VI) of this paragraph shall contain all of the following:

- (A) The name of the applicant.
- (B) A statement detailing the requested curtailment, abandonment, or restriction, and its requested effective date.
- (C) A statement indicating that any person may file a written objection with the Commission no later than ten days prior to the requested effective date; but that a written objection alone will not preserve any right to participate as a party in any Commission proceeding on the matter.
- (D) A statement indicating that in order for any person to participate as a party, such person must file an appropriate and timely intervention according to the Commission's Rules Regulating Practice and Procedure.
- (E) The Commission's full address.

(VIII) Prior to 15 days before the requested effective date, the applicant shall file with the Commission a written affidavit stating its compliance with the notice requirements of subparagraphs (VI) and (VII) of this paragraph. The affidavit shall state the date the notice was completed and the method used to give notice. The applicant shall attach a copy of the notice to the affidavit.

- (c) No proposed amendment, change, extension, curtailment, or abandonment shall be effective unless and until the Commission has entered an order approving it.

3102. Transfers and Mergers.

(a) An application to transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets or stock, or to merge a utility with another entity, must include:

- (I) All the information required by rule 3100, as pertinent to each party to the transaction;
- (II) A statement showing accounting entries, under the Uniform System of Accounts, including any plant acquisition adjustment, gain, or loss proposed on the books by each party before and after the proposed transfer;

- (III) Copies of any sales agreement or contract of sale and all documents pertaining to the transfer;
 - (IV) Facts showing that the transfer is in the public interest, and an evaluation of the benefits and detriments, if any, to the customers of each party and to all other persons who will be affected by the transfer; and
 - (V) A comparison of the kinds and costs of service rendered before and after the proposed transfer.
- (b) An application to transfer a certificate may be made by joint or separate application of the transferor and the transferee.
- (c) When control of a utility is transferred to another utility, or the name is changed, the utility which will afterwards operate under the certificate shall file an adoption notice with the Commission, post the adoption notice in a prominent public place in each local office of the utility, and have the adoption notice available for public inspection at each local office. Adoption notice forms are available from the Commission. The adoption notice shall contain all of the following information:
- (I) The name, phone number, and complete address of the adopting utility.
 - (II) The name of the previous utility.
 - (III) The number of the tariff adopted, and the description or title of the tariff adopted.
 - (IV) The number of the tariff after adoption, and the description or title of the tariff after adoption.
 - (V) A statement that the adopting utility is making its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.

3103. Tariffs and Contracts. A utility shall keep its current tariffs, contracts, privileges, contract forms, and electric service agreements on file with the Commission. Unless otherwise provided by law all tariffs, contracts, privileges, contract forms, and electrical service agreements shall be available for public inspection at the Commission and each local office of the utility. Tariffs must plainly show all terms, conditions, rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected and enforced, including:

- (a) A description of test methods, equipment, and frequency of testing used to determine the voltage of electric service furnished.

- (b) Specific provisions for making aerial or underground service connections, transmission and distribution line extensions, including:
- (I) The terms and conditions by customer class under which such connections and extensions will be made.
 - (II) Provisions requiring the utility to provide service connection information to a customer, upon request, necessary to allow the customer's facilities to be connected to the utility's system.
 - (III) Provisions requiring the utility to exercise due diligence in providing the customer with an estimate of the anticipated cost of a connection or extension.
 - (IV) Just and reasonable provisions with respect to the impact upon existing customers through rates and service, including equitably allowing future customers to share costs incurred by the initial or existing customers served by a connection or extension, including a refund of customer connection or extension payments when appropriate.
 - (V) A description of specific customer categories within each customer class such as permanent, indeterminate, and temporary.
 - (VI) Consideration of the implications of such provisions on energy efficiency and conservation.
 - (VII) A comparison of photovoltaic energy to any proposed distribution line extension, if a customer provides the utility with load data (estimated monthly kilowatt-hour usage) requested by the utility to conduct the comparison, and the customer's peak demand is estimated to be less than 25 KW. In performing the comparison analysis, the utility will consider line extension distance, overhead/underground construction, terrain, other variable construction costs, and the probability of additions to the line extension during the life of the open extension period. For customers whose ratio of estimated monthly kilowatt-hour usage divided by line extension mileage is less than or equal to 1,000, the utility will provide the photovoltaic system cost comparison at no cost. If the ratio is greater than 1,000, the customer shall bear the cost of the comparison, unless the comparison was requested by the utility.
- (c) A description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.
- (d) A description of the utility's practices concerning

- (I) testing and adjustment of service meters at installation, and
 - (II) periodic testing after installation.
- (e) A clear statement describing when meters will be read by the utility and the circumstances, if any, under which the customer must read the meter and submit the data to the utility, specifying in detail the procedure that the customer must follow, and if special conditions apply to certain classes of service, such as residential, commercial, industrial or seasonal.
 - (f) A description of standard average voltage, or voltages, and frequency, or frequencies, as may be required by its distribution system, for its entire system, or for each of the several districts into which the system may be divided.
 - (g) A statement setting forth the utility's customer deposit requirement policy for establishing electrical service explaining when a deposit will be required and when it will be returned.
 - (h) All other rules, regulations, and policies covering the relations between the customer and the utility.

3104. New or Changed Tariffs.

- (a) A utility may seek to add a new tariff or change an existing tariff in either of the two following ways:
 - (I) The utility may file the proposed tariff, including the proposed effective date, accompanied by an advice letter, and providing notice in accordance with rule 1206. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the proposed effective date, the proposed tariff shall take effect on the proposed effective date.
 - (II) The utility may file an application to implement a proposed tariff on less than 30 days' notice, accompanied by the proposed tariff, including the proposed effective date, and providing notice in accordance with rule 1206. The application must explain the details of the proposed tariff, including financial data if applicable, justify why the proposed tariff must become effective on less than 30-days notice, and note any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.
- (b) Each tariff sheet, not an original, shall be designated "1st revised sheet No. ___ cancels original sheet No. __," or "2nd revised sheet No. ___ cancels 1st revised sheet No. __," as appropriate. Each sheet shall direct attention to the changes by the use of symbols in the right margin such as "I" for increase,

"D" for decrease, "C" for change in text, and "N" for new text. On a contents or index page the utility shall show the meaning of the symbols used by it to point out changes contained in its revised tariff filings. If a tariff sheet is issued under a specific authority or decision of the Commission, each sheet so affected shall show the number in the space provided at the foot of the sheet.

- (c) The Commission may reject any tariff that is not in the form or does not contain the information required by statutes, rules, regulations, orders, and decisions of the Commission. Any tariff rejected by the Commission shall be void and shall not be used.

3105. Advice Letters. Each proposed tariff must be accompanied by a serially-numbered advice letter. The letter shall list all sheets included in the filing by number, and show the sheets, being cancelled, if any. The purpose of the filing, the changes being proposed, the amounts, if any, by which the utility's revenues will be affected, and the extent to which customers will be affected shall be clearly summarized, along with information demonstrating that the proposed tariff is just and reasonable.

3106. [Reserved].

3107. [Reserved].

3108. Securities.

- (a) Any utility which derives more than 5 percent of its consolidated gross revenues in Colorado as a public utility, or which derives a lesser percentage if its revenues are earned by supplying an amount of energy which equal 5 percent or more of this State's consumption, must file an application for Commission approval of any proposal to issue, renew, extend, assume, or guarantee any security, or to create any lien on its property within the State of Colorado.

- (b) A securities application shall contain all of the following data, information, and material, to the extent applicable, either in the application or attached exhibits:

- (I) All information required by paragraphs (a)-(f), (j), (k), (p), and (r) of Rule 3100.
- (II) A statement describing the applicant's existing operations and general service area.
- (III) A statement describing in detail the extent the applicant is affiliated with any other utility, including any financial interest.
- (IV) A statement describing each short-term and long-term indebtedness outstanding on the date of the balance sheet.

- (V) A statement describing the classes and amounts of capital stock authorized by the articles of incorporation, and the amount by each class of capital stock outstanding on the date of the balance sheet.
 - (VI) A statement of capital structure, showing common equity, long-term debt and preferred stock, if any, and pro forma capital structure on the date of the balance sheet giving effect to the issuance of the proposed securities. Debt and equity percentages to total capitalization, actual and pro forma, shall be shown.
 - (VII) A statement of the amount and rate of dividends declared and paid, or the amount and year of capital credits assigned and capital credits refunded, during the previous four calendar years including the present year to the date of the balance sheet.
 - (VIII) A statement describing the type and amount of securities to be issued, the anticipated interest rate or dividend rate, redemption or sinking fund provisions if any, and a copy of the registration statement, related forms, and preliminary prospectus filed with the Securities and Exchange Commission relating to the proposed issuance.
 - (IX) A statement of proposed uses, including construction, to which the funds will be or have been applied, and a concise statement of the need for the funds.
 - (X) A statement of the estimated cost of financing.
 - (XI) A copy of the resolution of the applicant's board of directors approving the issuance, renewal, extension, assumption, or guarantee of the securities, together with copies of the proposed indenture requirements, the mortgage note, the amendment to amending loan contract, and the contract for sale of securities.
- (c) The Commission shall publish notice of the application, which shall set a ten-day intervention period and a hearing date. Within three days after the filing of an application to issue, renew, extend, assume, or guarantee a security, or to create a lien on property in Colorado, the utility shall publish notice of the filing of the application in a newspaper of general circulation. The notice shall contain all the following information:
- (I) The name and address of the utility.
 - (II) A statement of the purpose of the application, including a statement of the effect the application would have upon existing customers if granted.

- (d) The utility shall file with the Commission a copy of the published notice and an affidavit of publication as soon as possible after the filing of the application. The Commission shall not grant the application without a filed copy of the notice and the affidavit of publication.
- (e) The Commission shall give priority to all securities applications, and shall grant or deny them within 30 days after filing, unless the Commission, for good cause shown, enters an order granting an extension and stating fully the facts necessitating the extension.
- (f) The Commission, consistent with the provisions of § 40-1-104, C.R.S., shall approve or disapprove a securities application via written order.
- (g) Unless approved by the Commission, no security shall be used to refund in whole or in part any bond, note, or other evidence of indebtedness having a maturity date more than 12 months after the date of issuance. Any security issued, renewed, extended, assumed, or guaranteed without Commission approval shall be void.

3109. Flexible Regulation.

- (a) Any electric utility may file an application with the Commission seeking authority to provide service to a customer or potential customer by contract, without reference to its tariffs. Such an application must be verified, and must contain the following information:
 - (I) All information required by paragraphs (a)-(f), (p), and (r) of Rule 3100.
 - (II) The name of the customer or potential customer.
 - (III) A description of the services which the applicant seeks to provide to a customer or a potential customer.
 - (IV) A statement regarding how the applicant will provide service if it contracts with a customer or potential customer.
 - (V) The facts which the applicant believes satisfy the requirements of § 40-3-104.3(1)(a), C.R.S.
 - (VI) A statement that the applicant has provided copies of the application and contract as required by paragraph (c) of this rule.
- (b) An application must be accompanied by the direct testimony or exhibits to be offered at hearing, unless the applicant believes that it will be uncontested and unopposed. If an exhibit is large or cumbersome the applicant shall file the title of each

exhibit and a summary of the information contained in the exhibit, and provide the location of the exhibit where parties may inspect it.

- (c) Any contract filed with an application shall be filed with the Commission under seal pursuant to Rules 1100 - 1102 and § 40-3-104.3(1)(b), C.R.S. The applicant shall furnish a copy of the application and contract to the office of consumer counsel and to any utility then providing service to the customer. The Commission, the office of consumer counsel, and any utility receiving a copy of the contract shall treat the contract as confidential.
- (d) Prefiled testimony or exhibits shall not be modified once filed except for typographical errors or mistakes or where all parties to the proceeding agree to the change. In the event a substantive change is made without the agreement of all parties, the Commission may consider the effect of the substantive change as a basis for a motion to continue in order to allow the Staff of the Commission and any other party a reasonable opportunity to properly address the change.
- (e) Any party desiring to intervene must move to do so within 5 days of the date the utility provides notice.
- (f) In the event a person intervenes in a proceeding initiated under § 40-3-104.3, C.R.S., upon notice to the applicant, either in writing, by facsimile, or by any other method, the applicant shall hand deliver or otherwise provide to the intervenor, copies of all prefiled testimony and exhibits within two days.
- (g) Unless the Commission orders otherwise, the applicant shall publish notice of the application in a newspaper of general circulation on the same day as the filing of the application. The Commission may, but need not, provide notice of the application.
 - (I) The notice provided by the applicant shall contain all the following information:
 - (A) The name and address of the applicant.
 - (B) A statement that the applicant is seeking an order from the Colorado Public Utilities Commission authorizing it to provide service under contract without reference to its tariffs;
 - (C) The name of the proposed customer;
 - (D) A statement that the proposed customer may have the ability to provide its own service or may have competitive alternatives available to it;

- (E) A general description of the types of services to be affected;
 - (F) A statement of where affected customers may call to obtain information concerning the application;
 - (G) A statement that anyone may file a written objection to the application, but that the mere filing of a written objection will not permit participation as a party in any proceeding before the Commission;
 - (H) A statement that anyone desiring to participate as a party must file a petition to intervene within five days from the date of this notice, and that the intervention must comport with the Commission's Rules Regulating Practice and Procedure;
- (II) Within 3 days of providing notice, the applicant must file with the Commission an affidavit showing proof of publication of notice.
- (h) Should an application be filed which the Commission determines is not complete, the Commission shall notify the applicant within ten days from the date the application is filed of the need for additional information. The applicant may then supplement the application so that it is complete. Once complete, the Commission will process the application, with all applicable timelines running from the date the application is completed.
 - (i) The Commission shall issue an order approving or disapproving the application within the time permitted under § 40-3-104.3(1)(b), C.R.S.
 - (j) The Commission may require the utility to file an accounting plan according to a specific fully distributed cost allocation methodology which segregates investments, revenues, and expenses associated with utility service provided by a contract from other regulated utility operations, to ensure that such gas services are not subsidized by revenues from other utility operations. If revenues from a service provided by a gas utility under a contract are less than the cost of service, the rates for other regulated utility operations may not be increased to recover the difference. A utility may not provide service under an authorized contract for less than the utility's marginal cost of gas service.
 - (k) The utility shall provide final terms of service as specified in § 40-3-104.3(1)(e), C.R.S.

FACILITIES

3200. Construction, Installation, Maintenance, and Operation.

- (a) The electric plant, equipment, and facilities of the utility shall be constructed, installed, inspected, maintained, and operated in accordance with accepted engineering practice in the electric industry to assure continuity of service, uniformity in the quality of service, and the safety of persons and property.
- (b) For all electric plant construction or installation commenced on or after August 1, 2001, the utility shall use as a minimum standard of accepted engineering practice the August 2001 edition of the National Electrical Safety Code as incorporated by reference under rule 3008(c).
- (c) For all electric plant construction or installation commenced prior to August 1, 2001, the minimum standard of accepted good engineering practice is the edition of the National Electrical Safety Code in effect at the time of commencing construction or installation of the electric plant. Any electric plant of the utility that was constructed or installed, and that is maintained and operated in accordance with the National Electrical Safety Code in effect at the time of its construction or installation shall be presumed to be in compliance with accepted good engineering practice in the electric industry and the provisions of this rule.

3201. Plant Instruments. Each electric utility shall install such indicating watt meters, watt-hour meters, or other instruments as may be necessary to obtain a daily record of the load, and a monthly record of the output of its plants. Each utility purchasing electrical energy shall install such instruments or meters as may be necessary to furnish full information as to the monthly purchases.

3202. Standard Voltage and Frequency.

- (a) A utility must make every reasonable effort to maintain a constant frequency and constant voltage at all times. A utility shall periodically measure and record service voltages maintained at the utility's main service terminals as installed for individual customers or groups of customers, which shall be practically constant as follows:
 - (I) For service rendered under a lighting contract or primarily for lighting purposes, the voltage shall at all times be maintained within 5 percent above or below the standard provided for in the utility's tariff.
 - (II) For service rendered under a power contract or primarily for power purposes the voltage shall at all times be maintained within 10 percent above or below the standard provided for in the utility's tariff.

(III) Variations in voltage in excess of those specified caused by the operation of power apparatus on the customer's premises which necessarily require large starting currents, caused by the action of the elements, or caused by infrequent, unavoidable, and short-duration fluctuations due to necessary station or line operations, shall not be considered a violation of this rule if only the customer's premises are affected. If other customers are affected, the one causing the problem shall work with the local utility to resolve the voltage fluctuation/violation problem or problems.

(b) A utility must file an application for a variance from the requirements of section (a) of this rule where both of the following are present:

(I) Service is furnished directly from a transmission line or in a limited or extended area where customers are widely scattered and the business done does not justify close voltage regulation, such as individual customers or small groups of customers whose service from a transmission line is incidental. This does not include communities, cities, or towns for which the transmission line was primarily built.

(II) The best voltage regulation practicable under the circumstances will be provided.

3203. Interruptions of Service. Each utility shall keep a record of all interruptions of service upon its entire system or major divisions thereof, including a statement of the time, duration, and cause of any such interruption. Each utility shall, except for stations operated without attendants, also keep a record of the time of starting up or shutting down generating stations or substations. The record shall include the readings taken periodically from station meters. These readings shall be taken with such interval as the utility or the Commission may from time to time require. The records of interruptions of service and a statement of the operating schedules of the utility shall be open at all times to the inspection of the duly authorized representatives of this Commission. The utility shall retain all such records for three years.

3204. Accidents.

(a) Each utility shall immediately report to the Commission each accident occurring in connection with the operation of its property, facilities or service, resulting in any deaths, serious injuries, or serious property damage. The report must describe in detail the:

(I) Date, time, place, and location of the accident;

(II) Type of accident;

- (III) Names of all parties involved; and
 - (IV) Nature and extent of injuries and damage.
- (b) If the utility conducts an internal investigation of an accident, referred to in paragraph (a) above, it shall make its report available to the Commission upon request by the Commission.

3205. Construction or Expansion of Generating Capacity.

- (a) No utility may commence new construction or an expansion of generation facilities or projects until the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity, or until the Commission issues such a certificate. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of generation facilities when such construction or expansion is contained entirely within the cooperative's certificated area.
- (b) Any expansion which will result in an increase in generating capacity of less than 10 megawatts, or generating plant remodeling or installation of any equipment or building space required for pollution control systems shall be deemed to occur in the ordinary course of business, and shall not require a certificate of public convenience and necessity.
- (c) For each expansion that will result in an increase in generating capacity of 10 megawatts or more, the electric utility shall no later than April 30 of each year submit a filing to the Commission for approval of its schedule of proposed new construction or expansions for the next 3 calendar years. For each such project, the filing shall set forth the following:
- (I) The name, proposed location, and function of the project;
 - (II) The estimated cost of the project, and the manner in which it is expected to be financed; and
 - (III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation of each project.
- (d) The Commission will give notice of the filing of such data to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (e) The staff of the Commission shall review the filing and any comments received and make recommendations as follows:
- (I) For any new construction or expansion project scheduled to begin in the next calendar year which will result in an

increase in generating capacity of 10 megawatts or more, the staff shall make its recommendations by May 31 of the year in which the filing is made.

- (II) For any new construction or expansion project scheduled to begin in the second or third calendar year subsequent to the year the data is filed, which project will result in an increase in generating capacity of 10 megawatts or more, the staff shall make its recommendations by August 31 of the year in which the filing is made.
- (f) The Commission shall issue its decision on the staff's recommendation in accordance with the schedule set forth below:
- (I) For projects scheduled to begin in the next calendar year, the decision designating those generation projects that require a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.
 - (II) For projects scheduled to begin in the second or third calendar year, the decision designating those generation projects that require a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.

3206. Construction or Expansion of Transmission Facilities.

- (a) No utility may commence new construction or an expansion of transmission facilities or projects until the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity, or until the Commission issues such a certificate. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of transmission facilities when such construction or expansion is contained entirely within the cooperative's certificated area.
- (b) No later than April 30 of each year, each electric utility, including those cooperative electric associations which have voted to exempt themselves pursuant to § 40-9.5-103, C.R.S., shall submit a filing to the Commission for approval of its schedule of proposed new construction or expansions of transmission facilities within its certificated service territory for the next 3 calendar years. For each such project, the filing shall set forth the following:
 - (I) The name, proposed location, and function of the project;
 - (II) The estimated cost of the project, and the manner in which it is expected to be financed; and

- (III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation of each project.
- (c) In addition to the information provided in section (b) of this rule, the filing shall also describe those actions and techniques relating to prudent avoidance with respect to planning, siting, construction, and operation of the proposed construction or expansion. Prudent avoidance means the striking of a reasonable balance between the potential health effects of exposure to magnetic fields and the cost and impacts of mitigation of such exposure, by taking steps to reduce the exposure at reasonable or modest cost. Such steps may include, but are not limited to:
 - (I) Design alternatives considering the spatial arrangement of phasing of conductors;
 - (II) Routing lines to limit exposures to areas of concentrated population and group facilities such as schools and hospitals;
 - (III) Installing higher structures;
 - (IV) Widening right of way corridors; and
 - (V) Burial of lines.
- (d) The Commission will give notice of the filing of such data to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (e) The staff of the Commission shall review the filing and any comments received and make recommendations as follows:
 - (I) For any new construction or expansion, the construction of which is to begin in the next calendar year, the staff shall make its recommendations by May 31 of the year in which the filing is made.
 - (II) For any new construction or expansion, the construction of which is to begin in the second or third calendar year subsequent to the year the data is filed, the staff shall make its recommendations by August 31 of the year in which the filing is made.
- (f) The Commission shall issue its decision on the staff's recommendation in accordance with the schedule set forth below:
 - (I) The decision designating the construction or expansion of transmission facilities which are to begin in the next calendar year that require a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.

(II) The decision designating the construction or expansion of transmission facilities which are to begin in the second or third calendar year subsequent to the year the data is file that require a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.

(g) The utility shall install and maintain service connections from transmission extensions consistent with conditions approved in the utility's tariff.

3207. Construction or Expansion of Distribution Facilities.

(a) Expansion of distribution facilities, as authorized in § 40-5-101, C.R.S., is deemed to occur in the ordinary course of business, and shall not require a certificate of public convenience and necessity.

(b) The utility shall install and maintain service connections from distribution extensions consistent with conditions approved in the utility's tariff.

3208. Poles.

(a) In the case of two or more utilities jointly owning or using a pole or pole line structure, each of these utilities shall mark each such pole or structure with the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark by which the ownership of such structure may be readily and definitely determined.

(b) Each utility shall mark each such pole, post, tower, or other structure used for the support or attachment of electrical conductors, guys, or lamps, with dating nails or similar devices indicating the year in which such structure was installed. Each such structure must be inspected regularly, in accordance with prudent utility practices, by the utility owning or using it, and timely repaired or replaced.

(c) The requirements herein shall apply to all existing and future erected structures and to all changes in ownership.

3209. Service Connections. Service connections to customer premises or property involving aerial or underground equipment shall be installed and maintained at the expense of the utility. The utility shall install and maintain service connections consistent with the conditions approved by the Commission in the utility's tariff. In special cases involving either aerial or underground service connections, the Commission will, if necessary, prescribe the proper charge.

METERS

3300. Service Meters and Related Equipment.

- (a) All meters used in connection with electric metered service for billing purposes shall be furnished, installed, and maintained at the expense of the utility.
- (b) Any equipment, devices, or facilities furnished at the expense of the utility or for which the utility bears the expense of maintenance and renewal, including service meters, shall remain the property of the utility and may be removed by it at any time after discontinuance of service.
- (c) Each service meter shall indicate clearly the kilowatt-hours and units of demand, where applicable, for which charge is made to the customer. In cases where the register and/or chart reading must be multiplied by a constant or factor to obtain the units consumed, the factor, factors, or constant shall be clearly marked on the register or face of the meter.

3301. Location of Service Meters. As of the time of meter installation:

- (a) Meters shall be located in accordance with the pertinent rules of the utility as filed with the Commission and in accordance with accepted safe practice.
- (b) Meters shall not be installed where they will interfere with traffic in halls or passageways, if indoors, or sidewalks or driveways, if outdoors, or where they will obstruct the opening of doors or windows; or in any location considered hazardous or where reading, testing or servicing of the meter may become impracticable; or where damage may be caused to any part of customer's premises. Meters shall not be installed in coal or woodbins or on partitions forming such bins or on any unstable partitions or supports. Meters shall not be located where visits of meter readers or servicemen will cause unreasonable annoyance or inconvenience to the customer.
- (c) Meters shall be located so as to be easily accessible for reading, testing, and servicing.

3302. Service Meter Accuracy.

- (a) No service watt-hour meter that has an incorrect register constant, test constant, gear ratio or dial train, or that registers upon no load ("creeps"), shall be placed in service or allowed to remain in service without proper adjustment and correction.
- (b) No service watt-hour meter that has an error in registration of more than plus or minus two percent, either at light load or at heavy load, shall be placed in service. Demand meters may have

an allowable error of not more than two percent of full-scale deflection, except that the allowable error for thermal type meters may be three percent. Whenever a meter is found to exceed these limits, it must be adjusted.

- (c) Meters used with instrument transformers or shunts shall be adjusted so that the overall accuracy of the metering installation meets the requirements of this rule.

3303. Meter Testing Equipment and Facilities.

- (a) Each utility furnishing metered electric service shall, unless specifically exempted by the Commission, provide such meter laboratory, standard meters, instruments, and other equipment and facilities as may be necessary to make the tests required by these rules. Such equipment and facilities shall be acceptable to the Commission and shall be available at all reasonable times for inspection by the Commission's authorized representatives.
- (b) Each utility shall make such tests as are prescribed under these rules with such frequency, in such manner, and at such places as may be approved by this Commission. Each utility shall file an application for approval of such testing practices. The application shall include:
 - (I) A description of the test methods employed and the frequency of tests or observations for determining voltage of electric service furnished.
 - (II) A description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.
 - (III) Rules covering testing and adjustment of service meters when installed and periodic tests after installation.
 - (IV) Supporting information and justification for the items listed in subparagraphs (I) through (III) of this paragraph.
- (c) Revisions to any portion of an approved application identified in paragraph (b) of this rule shall only be accomplished by the filing and approval of a new application.
- (d) Each utility furnishing metered electric service shall provide such portable indicating electrical testing instruments or portable watt-hour meters of suitable range and type for testing switchboard instruments, recording volt-meters, service watt-hour meters, and other electrical instruments in use, as may be deemed necessary and satisfactory by the Commission.
- (e) Rotating standards that are used by the utility in testing service meters shall be tested for accuracy by using reference

standards. If the reference standards used by the utility are service type watt-hour meters, such watt-hour meters must be permanently mounted in the utility's laboratory and may be used for no other purpose than testing rotating standards.

- (f) Reference standards shall be submitted at least once each year to a laboratory of recognized standing, for the purpose of testing and adjustment. A utility that maintains its own standardizing laboratory will be permitted to test and certify its own reference standards, provided the instruments and methods used are acceptable to the Commission.
- (g) When in use, commutator-type rotating standards shall be compared with the reference standards at least once a week. When in use, induction-type rotating standards, shall be compared with the reference standards at least once every two weeks. If any working rotating standard tests within plus or minus one percent error at any load at which the standard will be used, the standard may be adjusted by comparison with the utility's reference standards. However, if any working rotating standard test in error of more than plus or minus one percent, such standards shall be tested, adjusted, and certified in a standardizing laboratory of recognized standing. If a utility is exempted as provided in paragraph (a) of this rule, it shall have its working rotating standards tested by a standardizing laboratory of recognized standing at least once a year. Each rotating standard shall at all times be accompanied by a certificate or calibrating card signed by the standardizing laboratory, giving the date when it was last certified and adjusted.
- (h) When in use, all portable indicating electrical testing instruments, such as voltmeters, ammeters, and wattmeters shall have their calibration checked at least once every two weeks using suitable reference standards. When testing instruments are found to be more than one percent of the full-scale value at commonly used scale deflection, unless accompanied by a calibration card, the instruments shall be adjusted and certified by a laboratory acceptable to the Commission.
- (i) The utility shall keep records of certification and calibrations for all testing equipment required by this rule for the life of the equipment.

3304. Scheduled Meter Testing. Every service meter must be tested and adjusted either before installation or no later than 60 days thereafter, to ensure that it registers accurately and conforms to the requirements of rule 3302. In addition, every service meter must be tested on a periodic basis, as follows:

- (a) Alternating current watt-hour meters:

- (I) Polyphase meters used with instrument transformers, four years.
 - (II) Single-phase meters used with instrument transformers, eight years.
 - (III) Self-contained polyphase meters, six years.
 - (IV) Self-contained single-phase meters and three wire network meters, eight years.
- (b) Direct current watt-hour meters:
- (I) Up to and including 6-KW, 42 months.
 - (II) Over 6 KW up to and including 100 KW, 18 months.
 - (III) Over 100 KW, 12 months.
- (c) Var-hour meters and lagged demand meters must be tested on the same schedule as for associated watt-hour meters in section (a) or (b) of this rule. Integrated (block interval) demand meters, including demand registers and associated control devices, must be tested on the same schedule as for associated watt-hour meters in section (a) or (b) of this rule, but at least every six years.

3305. Meter Testing Upon Request.

- (a) Each utility furnishing metered electric service shall make a test of the accuracy of any electric service meter upon request of a customer. The test shall be conducted free of charge if the meter has not been tested within the previous twelve months and the customer agrees to accept the results of the test for the purposes of any dispute regarding the meter's accuracy. The utility shall provide a written report of the test results to the customer and maintain a copy on file for at least two years.
- (b) Upon written request by a customer, the Commission will send a trained employee to witness the test of any service meter as performed by the utility. The request must be accompanied by payment of the applicable fee, as follows:
- (I) For continuous current and single-phase meters operating at 480 volts or less, up to and including 200 amperes rated capacity of meter element, \$50 each.
 - (II) For single-phase meters above 480 volts and for polyphase meters with or without instrument transformer, \$50 each.
- (c) This rule and the schedule of fees apply only when there is a dispute between the customer and the company regarding the accuracy of a meter. If the meter is found to be fast beyond the

limits prescribed in rule 3302, the fee shall be reimbursed to the customer by the utility.

3306. Records of Tests and Meters.

- (a) A utility shall maintain a record for each meter owned or used by the utility, showing the date of purchase, manufacturer's serial number, record of the present location, and date and results of the last test performed by the utility, which record shall be retained for the life of the meter.
- (b) Whenever a meter is tested either on request or upon complaint, the test record shall include the information necessary for identifying the meter, the reason for making the test, the reading of the meter if removed from service, the result of the test, together with all data taken at the time of the test in a sufficiently complete form to permit the convenient checking of the method used and the calculations made. Such record shall be retained for at least two years.

3307. Master Meter Operators.

- (a) Either upon its own motion or upon the application of any master meter operator ("MMO"), the Commission may exempt a MMO from rate regulation under Articles 1 to 7 of Title 40, C.R.S., if the Commission finds that the MMO has adopted adequate policies and procedures. An application requesting an exemption from rate regulation must show that:
 - (I) As part of its billing for utility service, the MMO does not charge the end-users for any costs in addition to the actual cost billed to the MMO by the serving utility. Costs the MMO shall not charge to end-users include costs of construction, maintenance, financing, administration, metering, or billing for the utility distribution system owned by the MMO.
 - (II) If the MMO bills the end-users separately for service, the sum of such billings does not exceed the amount billed to the MMO by the serving utility. The MMO shall pass on to the end-users any refunds, rebates, rate reductions, or similar adjustments ("refunds") it receives from the serving utility.
 - (III) The procedures proposed by the MMO for giving notice of refunds to those who are not current end-users, but who were end-users during the relevant time period.
- (b) In passing on refunds to end-users, a MMO shall notify its end-users of any refunds and inform the end-users that they may claim the refunds within 90 days after receipt of the notice. The notification shall be made by first-class mail with a certificate of mailing, or by inclusion in any monthly or more frequent

written communication. The MMO shall also notify former customers who were end-users during the relevant time period according to the procedures approved by the Commission in the MMO's application for exemption.

- (c) If the aggregate amount of refunds remaining unclaimed after 90 days exceeds 100 dollars, the MMO shall contribute such unclaimed amount to the Low-Income Energy Assistance Program fund pursuant to § 40-1-103.5(2), C.R.S. If the aggregate amount does not exceed 100 dollars, the MMO may retain such aggregate amount. A MMO may retain any portion of such refunds that rightfully belongs to the MMO.
- (d) A MMO shall pay interest on undistributed refunds in accordance with rule 3409(b) (I).
- (e) On or before July 1 of each year, every MMO shall file a sworn and verified report with the Commission and CEAF containing the following information concerning the previous 12 months ending December 31:
 - (I) States that the MMO neither received a refund from a utility nor was in the process of distributing a refund; or
 - (II) States that the MMO either received a refund from a utility or was in the process of distributing a refund to customers, and with respect to each such refund:
 - (A) The amount and date the MMO received the refund;
 - (B) The amount retained by the MMO as a customer in its own right;
 - (C) The amount returned by the MMO to customers entitled to such refund amounts; and
 - (D) All undistributed amounts from the refund, and the calculation of interest on said amounts from the date received by the MMO through the date paid by the MMO to CEAF or, if not yet paid to CEAF, through the end of the reporting year; and
 - (E) the date and amount of undistributed amounts, including associated interest, paid by the MMO to CEAF.
- (f) Resale of electricity for profit by a MMO exempt from rate regulation is strictly prohibited. A MMO may check-meter tenants, lessees, or other persons to whom ultimately the electricity is distributed, for the purpose of reimbursing the MMO by an appropriate allocation procedure, provided the MMO does not receive more than is necessary to pay the master-metered

bill. Resale activity is a basis for revocation of an exemption order.

3308. [Reserved].

3309. Meter Reading. Upon the customer's request, the utility will provide a card or letter identifying the date the customer's meter was read and the total usage expressed in kilowatt-hours or other unit of service recorded. Each utility supplying metered service, on request, shall explain to its customers its method of reading meters.

BILLING AND SERVICE

3400. Billing Information. All bills issued to customers for metered service furnished shall show:

- (a) The beginning and ending dates and associated meter readings during which service was rendered;
- (b) An appropriate rate or rate code identification;
- (c) Net amount due;
- (d) Last date payable after which the bill becomes past due, which shall not be any earlier than 10 days subsequent to the mailing or delivery of the bill;
- (e) A distinct marking to identify an estimated bill; and
- (f) All other essential facts upon which the bill is based, including factors and constants, as applicable.

3401. Adjustments for Meter and Billing Errors.

- (a) A utility shall adjust customer charges for electricity incorrectly metered or billed as follows:
 - (I) When, upon any meter accuracy test, a meter is found to be running slow in excess of error tolerance levels allowed under rule 3302, the utility may charge for one-half of the weighted average error for the period dating from the discovery of the meter error to the pervious meter test, with such period not to exceed six months. Weighted average error, as used in this paragraph, is the arithmetic average of the percent error at light load and at heavy load giving the heavy load error a weight of four and the light load error a weight of one.
 - (II) When, upon any meter accuracy test, a meter is found to be running fast in excess of error tolerance levels allowed under rule 3302, the utility shall refund for one-half of the weighted average error for the period dating from the

discovery of the meter error to the pervious meter test, with such period not to exceed six months. Weighted average error, as used in this paragraph, is the arithmetic average of the percent error at light load and at heavy load giving the heavy load error a weight of four and the light load error a weight of one.

- (III) When a meter does not register, registers intermittently, or partially registers for any period, the utility may equitably estimate a charge for the electricity used based on amounts metered to the customer over similar periods in previous years. The period for which the utility charges the estimated amount shall not exceed six months.
 - (IV) In the event of underbillings not provided for in subparagraphs (I) or (III) of this paragraph, such as an incorrect multiplier, register, or billing error, the utility may charge for the period during which the underbilling occurred, with such period not to exceed six months.
 - (V) In the event of overbillings not provided for in subparagraph (II) of this paragraph, such as an incorrect multiplier, register, or billing error, the utility shall refund for the period during which the overbilling occurred, based on available records
- (b) Each utility shall maintain customer billing records for a minimum of two years.
 - (c) In the event of an overbilling, the customer may elect to receive the refund as a credit to future billings or as a one-time payment. If the customer elects a one-time payment, the utility shall make the refund within 30 days.

3402. Customer Deposits.

- (a) A utility shall not require customers who have previously received service within the past two years to make new or additional deposits to guarantee payment of current bills, unless their previous payment records include recent or substantial delinquencies. Customers who have not previously been served by the utility shall be treated uniformly within each rate classification, pursuant to the utility's tariff, so that either all or none of the new customers within such classification will be required to make a deposit.
- (b) No utility shall require any security other than a cash deposit to secure payment for utility services. However, a third-party guarantee of payment may be accepted instead of a cash deposit. The customer may mail or deliver to the utility the third-party guarantee form, signed by both the customer and the third party guarantor. 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 security interest in any real or personal property of the customer, unless such indebtedness has been reduced to judgment.

- (c) A deposit 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 of the utility's tariffs.
- (d) Each 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; and
 - (IV) Each premises occupied by the customer while the deposit is retained by the utility.
- (e) Each utility shall issue a receipt to every customer from whom such deposit is received. However, no utility shall refuse to return a deposit or any balance to which a customer may be entitled solely upon the basis that the customer is unable to produce a receipt.
- (f) The making of a deposit shall not relieve any customer from payment of current bills as they become due, and the 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.
- (g) The utility shall pay simple interest upon each deposit, earned from the date the deposit is received by the utility to the date the customer is paid. The Commission shall periodically set the interest rate by order and at such time intervals as the Commission deems appropriate.
- (h) All utilities, including such cooperative electric associations as may elect to be so governed, shall pay all unclaimed monies as defined in § 40-8.5-103(5), C.R.S., plus associated interest, that remains unclaimed for more than two years to CEAF. "Unclaimed monies" shall not include undistributed refunds for overcharges subject to other statutory provisions 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 advance was made, or for more than two years after the deposit or advance becomes payable to the customer pursuant to a final order of the Commission 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) A utility must pay interest on a deposit from the time it receives a security deposit, or from the time a construction advance is deemed owed to the customer pursuant to the utility's extension policy, until it is paid into CEAF. If a deposit is timely paid to CEAF, the interest rate shall be 6%. If a deposit is not timely paid, the interest rate shall be 12%.
 - (III) A utility shall resolve all inquiries regarding a customer's undistributed refund or unclaimed funds, and shall not refer such inquiries to CEAF.
- (i) On or before July 1 of each year, each utility shall file a report with the Commission, with a copy to CEAF for the preceding calendar year providing the following information:
- (I) Stating the amount of deposits and advances, and associated interest, attributable to amounts received from customers associated with security, new connections, new construction, or new pipelines under the utility's extension policies or tariffs; and
 - (II) Payments by the utility to CEAF of unclaimed deposits and advances associated with security, new connections, new construction, or new pipelines under the utility's extension policies or tariffs.

3403. Installment Payments.

- (a) A utility must permit a customer to make installment payments:
- (I) To pay charges from past billing periods arising solely from events under the utility's control such as meter malfunctions, billing errors, utility meter reading errors, or failures to read the meter, except where the customer refuses to read the meter and it is not readily accessible to the utility. Such installment payments may extend over a period equal in length to that during which the errors were accumulated, and shall not bear interest.
 - (II) If the customer pays at least 10 percent of the amount shown on the notice and enters into an installment payment

agreement on or before the expiration date of the notice of discontinuance.

- (III) If the customer pays at least 10 percent of any amount more than 30 days past due and enters into an installment payment agreement on or before the last day covered by a medical certification. A customer that has already entered but broken an agreement prior to receiving a medical certification must pay all amounts that were due up to that date, and resume the installment payment agreement.
 - (IV) If the customer pays at least any collection and reconnection charges and enters into an installment payment agreement, if service has been discontinued, unless the service was discontinued because the customer breached a prior payment agreement.
- (b) Installment payment agreements must include any and all of the following amounts as may be applicable at the time the customer requests a payment agreement:
- (I) The unpaid remainder of the amount shown on the notice;
 - (II) Any amounts not included in the amount shown on the notice which have since become more than 30 days past due;
 - (III) All current charges, contained in any bill which is past due but is less than 30 days past the due date;
 - (IV) Any new charges, contained in any bill which has been issued but is not past due;
 - (V) Any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill;
 - (VI) Any deposit, whether already billed, billed in part, or required by the utility's tariff due for discontinuance or delinquency or to establish initial credit, other than those required as a condition of initiating service; and
 - (VII) Any other charges or fees provided in the utility's tariff, whether or not they have appeared on a regular monthly bill, including but not limited to miscellaneous service charges, investigative charges, and insufficient-check charges.
- (c) The utility shall provide the customer with a copy of this rule and a statement describing the payment agreement within 10 days of entering into a payment agreement.
- (d) An installment payment plan agreement shall consist of equal monthly installments, for a term selected by the customer not to

exceed 6 months. In the alternative, the customer may choose a modified budget billing payment agreement, in which the total due shall be added to the preceding year's total billing to the customer's premises, modified for any base rate or cost adjustment increases. The resulting amount shall be divided and billed in 11 equal monthly budget billing payments, followed by a settlement billing in the twelfth month.

- (e) The first monthly installment payment shall be due, together with the new charges unless the new charges have been made part of the agreement amount, on the due date of the new charges. Succeeding installment payments shall be due, together with the new charges, on the due date of the new charges. Any installment or budget billing payment not paid on the due date of the new charges shall be considered in default. Any new charges that are not paid by the due date shall be considered past due.

3404. Service, Rate, and Usage Information.

- (a) Each utility shall inform each customer of any change proposed or made in any term or condition of its service that will affect the quality of the service.
- (b) The utility must also provide customers with the following information upon request:
 - (I) A clear and concise summary of the existing rate schedule applicable to each major class of customers for which there is a separate rate;
 - (II) An identification of any classes whose rates are not summarized;
 - (III) A clear and concise explanation of the existing rate schedule applicable to such consumer within 10 days of a customer's request, or within 60 days of the commencement of service if it is a new customer.
 - (IV) A clear and concise statement of the customer's actual consumption or degree-day adjusted consumption of electricity for each billing period during the prior year, unless such consumption data is not reasonably ascertainable by the utility; and
 - (V) Any other information and assistance as may be reasonably necessary to enable customers to secure safe and efficient service.
- (c) Information provided under this rule must be transmitted through a method that will assure receipt by each customer including bill inserts, or periodic direct mail.

3405. Component and Source Disclosures.

- (a) By June 1 of each year, each utility with a total system load of greater than 100 megawatts shall file an application for approval of a proposed customer information statement, including explanatory information to accompany the statement, disclosing the information described in section (b) of this rule. The application must be accompanied by documentation supporting the calculations used to determine the percentages set forth in the disclosure.

- (b) Each utility shall provide the following itemized information to its customers in April and October of each year, in the form of a bill insert or a separate mailing:
 - (I) The percentage components, which include fixed and variable components, of the total average delivered price of electricity, residential or commercial, as applicable, attributable both to power supply and to power delivery, for the previous calendar year. Power supply shall include all generation, purchase power, and non-utility transmission components. Power delivery shall include all utility transmission and distribution components.

 - (II) The power supply mix listing the fuel sources, expressed as a percentage of average annual power acquired and generated by the utility for the previous calendar year. The utility shall make every reasonable effort to identify and include all power supplied by non-utility generation sources in the power supply fuel source composition to the extent that they are identifiable. Those sources which are not identifiable shall be listed as "imported, fuel source unknown." Fuel mixture information must use the following fuel type categories in the following order, rounded to the nearest tenth of one percent: biomass and waste; coal; geothermal; hydroelectric; natural gas; nuclear; solar; wind; and imported, fuel source unknown.

- (c) Price components and sources of power supply shall appear together in a format no larger than one page and shall be clearly legible, as follows:

ELECTRICITY FACTS																							
<p>Price Components</p> <p>Percentage components for an average monthly residential* electric bill.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 70%;"></th> <th style="width: 30%;">Residential * Service</th> </tr> </thead> <tbody> <tr> <td>Power Supply (Generation & Purchase)</td> <td style="text-align: center;">xx%</td> </tr> <tr> <td>Power Delivery (Transmission & Distribution)</td> <td style="text-align: center;">xx%</td> </tr> </tbody> </table>		Residential * Service	Power Supply (Generation & Purchase)	xx%	Power Delivery (Transmission & Distribution)	xx%																
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Total	100%																						

3406. Discontinuance of Service.

- (a) No utility shall discontinue the service of any customer for any reason, other than nonpayment, fraud or subterfuge, service diversion, equipment tampering, safety concerns, exigent circumstances, discontinuance ordered by any appropriate governmental authority, or properly discontinued service being restored by someone other than the utility when the original cause for proper discontinuance has not been cured.
- (b) Service shall not be discontinued for nonpayment of:
- (I) Any amount which has not appeared on a regular monthly bill, or which is less than 30 days past due;
 - (II) Any amount due on another account presently or previously held or guaranteed by the customer, or with respect to

which the customer received service, unless the amount has first been transferred to an account which is for the same class of service, or 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 the same as if it had been billed for the first time;

- (III) Any amount due on any other account on which the customer is or was neither the customer of record nor a guarantor, nor any amount due from a previous occupant of the premises, unless the customer is or was obtaining service through fraud or subterfuge, such as obtaining service in the name of another party by an applicant whose account is delinquent;
 - (IV) 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 without the customer's knowledge or consent;
 - (V) Any delinquent amount that is more than two years old, unless the utility can supply detailed billing records from the time the delinquency occurred; or
 - (VI) Any debt except that incurred for service rendered by the utility in Colorado.
- (c) If the utility discovers any connections or devices installed on the customer's premises, including any energy-consuming devices connected on the line side of the utility's meter, which would prevent the meter from registering the actual amount of energy used, it may:
- (I) Remove or correct such devices or connections and leave written notice at the premises, advising the customer of the violation, the steps taken by the utility to correct it, and that the customer may be billed for any estimated energy consumption not properly registered; or
 - (II) Provide the customer written notice that the devices or connections must be removed within 10 days, and that the customer may be billed for any estimated energy consumed but not properly registered.
- (d) If the utility discovers evidence that any equipment has been tampered with or service diverted, it must provide the customer written notice of the discovery, the steps the utility will take to determine whether non-registration of energy has or will occur, and that the customer may be billed for any estimated energy consumption not properly registered.

- (e) No utility shall discontinue any service for any reason other than safety concerns or exigent circumstances:
- (I) If 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, including any employee dispatched to discontinue service. Payment of a reasonable charge for a service call shall not be required to avoid discontinuance.
 - (II) If a residential 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 agreement with the utility, as provided in rule 3403.
 - (III) Between 12 Noon on Friday and 8 a.m. the following Monday, or between 12 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday.
 - (IV) If discontinuance would aggravate an existing medical condition or create a medical emergency for the customer or a permanent resident of the customer's household, as evidenced by a written medical certification from a Colorado-licensed physician or health practitioner acting under a physician's authority. A medical certification is valid to prevent discontinuance of service for 60 days. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this rule 3406(e)(IV) only once in any twelve consecutive months.

3407. Notice of Discontinuance.

- (a) The utility must provide written notice by first class mail or hand delivery at least 10 days in advance of any proposed discontinuance of service, except in cases of broken agreements as provided in section (f) of this rule. The notice must be conspicuous and in easily understood language, and the heading shall contain, in capital letters, the following warning:
- THIS IS A FINAL NOTICE OF DISCONTINUANCE OF
UTILITY SERVICE AND CONTAINS IMPORTANT
INFORMATION INVOLVING YOUR LEGAL RIGHTS AND
REMEDIES. PROMPT ACTION IS REQUIRED TO AVOID
DISCONTINUANCE.
- (b) The body of the notice of discontinuance under section (a) of this rule must advise the customer:
- (I) What particular rule has been violated, if any;

- (II) The amount past due for utility service, deposits, or other tariff charges, if any;
- (III) The date by which full payment must be received to avoid discontinuance;
- (IV) Whether the utility requires payment of the amount due only in the form of cash or certified funds;
- (V) That a residential customer may avoid discontinuance of service by paying, on or before the expiration date of the notice, at least one-tenth of the amount shown on the notice and entering into an installment agreement with the utility to pay the remaining past due balance in equal monthly installments, according to rule 3403;
- (VI) That the customer has the right to a hearing in person, at a reasonable time and place, within 10 days of the date the notice was sent, before the utility's manager or the manager's designee, according to procedures adopted by the utility for such hearings;
- (VII) How to contact the utility, toll-free, from within the utility's service area, to resolve the matter;
- (VIII) That the customer has the right to initiate a grievance with the Commission staff by letter, telephone, or in person; and that the customer has a right to a hearing by filing a formal written complaint with the Commission;
- (IX) Of the address and telephone number of the Commission's consumer affairs section;
- (X) That the customer has a right to file a motion for a Commission order to the utility not to disconnect service pending the outcome of the hearing on the complaint, and that the Commission may grant the motion upon such terms as it deems reasonable, including but not limited to the posting of a deposit or bond with the utility or timely payment of all undisputed charges;
- (XI) That if a residential customer is unable to pay for service as regularly billed, and delivers a medical certification to the utility indicating that discontinuance of service would aggravate an existing medical condition or create a medical emergency for the customer or a permanent resident of the customer's household, that there will not be discontinuance of service for 60 days from the date of the medical certification with a possible 30-day extension upon delivery of a second medical certification;

- (XII) That if service is discontinued for non-payment, service may be restored if a residential customer pays any reconnection and collection charges as may be specifically required according to the utility's tariff and enters into an installment payment arrangement or the customer provides a medical certification; and
- (XIII) Of federal, state, and local government agencies that the utility believes may provide customer assistance or benefits relating to utility service.
- (c) The utility shall also provide written notice by first class mail or hand delivery to any third party the customer has designated in writing to receive notices of discontinuance or broken agreement.
- (d) The terms of an installment payment plan agreement, including a modified budget billing agreement, must be explained and offered to each residential customer who contacts the utility in response to a notice of discontinuance.
- (e) Following the issuance of the notice of discontinuance, and at least 24 hours prior to discontinuance, the utility must attempt to give notice of the proposed discontinuance in person or by telephone both to the residential customer (or to an adult member of the customer's household) and to any third party the customer has designated in writing to receive such notices. If the utility attempts to notify the customer in person but fails, it shall leave written notice of the attempted contact and its purpose.
- (f) If the customer has entered into an installment payment agreement, and defaults or allows a new bill to become past due, the utility shall provide, by first class mail or hand delivery, a written notice:

NOTICE OF BROKEN AGREEMENT

The body of the notice must advise the customer:

- (I) That the utility may discontinue service if it does not receive the monthly installment payment within 10 days after the notice is sent or delivered;
- (II) That the utility may discontinue service if it does not receive payment for the current bill within 30 days after its due date;
- (III) That if service is discontinued, the utility may refuse to restore service until all amounts more than 30 days past due have been paid, together with any collection or reconnection charges; and

- (IV) That if a residential customer is unable to pay for service as regularly billed, and delivers a medical certification to the utility indicating that discontinuance of service would aggravate an existing medical condition or create a medical emergency for the customer or a permanent resident of the customer's household, that there will not be discontinuance of service for 60 days from the date of the medical certification with a possible 30-day extension upon delivery of a second medical certification.

- (g) The utility is not required to provide notice under this rule in situations involving safety concerns, or exigent circumstances, or if discontinuance is ordered by any appropriate governmental authority, or if service, having been already properly discontinued, has been restored by someone other than the utility and the original cause for discontinuance has not been cured.

- (h) Where the utility knows that the service to be discontinued is used by permanent residents in multi-unit dwellings or a cluster of dwellings, and the utility service is recorded on a single meter used either directly or indirectly by more than one dwelling unit, the utility shall issue notice as required in sections (a) and (b) of this rule, except that:
 - (I) The notice period shall be 30 days;
 - (II) Such notice also may include the current bill;
 - (III) The utility shall also provide written notice to each individual dwelling unit, stating that a notice of discontinuance has been sent to the party responsible for the payment of utility bills for the dwelling, and that the occupants of the dwelling units may avoid discontinuance by paying the next new bill in full within 30 days of its issuance and successive new bills within 30 days of issuance; and
 - (IV) The utility must post the notice in at least one of the common areas of the multi-unit dwelling.

3408. Restoration of Service.

- (a) Any service already discontinued must be restored if it was not properly discontinued as provided in rule 3406.

- (b) Service must be restored within 12 hours, unless prevented by safety concerns, or exigent circumstances, if the customer:
 - (I) Pays in full the amount shown on the notice, plus 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 agreement and makes the first installment payment, unless the cause for discontinuance was the customer's breach of such an agreement;
- (III) Presents a medical certification, as provided in rule 3406(e) (IV); or
- (IV) Demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

3409. Refund Plans.

- (a) Any utility proposing to make a refund, either upon its own initiative or as required by the Commission, shall file an application for approval of the refund plan, containing the following information:
 - (I) A detailed description of the proposed refund plan, including the type of utility service involved, the service area involved, and the dollar amount of the proposed refund. The interest rate on the refund shall be the current interest rate in the applicant's customer deposits tariff.
 - (II) The date the applicant proposes to start making the refund, which must be more than 60 days after the filing of the application, the date by which the refund will be completed, and the means by which the refund is proposed to be made.
 - (III) A reference by docket number, decision number, and date of any Commission decision requiring the refund or, if the refund is to be made because of receipt of monies by the applicant under the order of another state or federal agency, a copy of the order.
 - (IV) A statement describing in detail the extent to which the applicant has any financial interest in any other company involved in the refund plan.
 - (V) A statement showing accounting entries under the Uniform System of Accounts.
 - (VI) A statement that if the application is granted, the applicant will file an affidavit establishing that the refund has been made in accordance with the Commission's decision.
- (b) All utilities, including such cooperative electric associations as may elect to be so governed, shall pay 90% of all undistributed balances, plus associated interest, to CEAF. A

refund is deemed undistributed if, after good faith efforts, a utility is unable to find the person entitled to a refund within the period of time fixed by the Commission in its decision approving the refund plan.

- (I) A utility must pay an undistributed refund into CEAF within four months of the time the refund is deemed undistributed pursuant to the refund plan approved by the Commission. A utility must pay interest on undistributed refunds from the time it receives the refund until it is paid into CEAF. If the refund is timely paid into CEAF, the interest rate shall be equal to the interest rate set by the Commission pursuant to rule 3402(g). If the refund is not timely paid, the interest rate shall be equal to the interest rate set by the Commission pursuant to rule 3402(g) plus an additional six percent.
 - (II) Whenever a utility makes a refund, it shall provide written notice to those customers that it believes may be MMOs. The notice shall contain:
 - (A) the definition of MMO, as defined in these rules; and
 - (B) a statement regarding an MMO's obligation
 - (i) to notify its end users of their right to claim, within 90 days, their proportionate share of the refund, and
 - (ii) after 90 days, if the unclaimed balance exceeds \$100, to remit the unclaimed balance to CEAF.
 - (III) A utility shall resolve all inquiries regarding a customer's undistributed refund or unclaimed funds, and shall not refer such inquiries to CEAF.
- (c) On or before July 1 of each year, each utility shall file a report with the Commission for the preceding calendar year stating whether the utility made or was making any refunds, stating the amounts and interest associated with any such refunds, and giving a brief summary of what gave rise to the refund. The utility shall also provide CEAF with a copy of the report.

UNREGULATED GOODS AND SERVICES

3500. - 3599. [Reserved].

LEAST COST PLANNING

3600. - 3699. [Reserved].

APPEALS OF LOCAL GOVERNMENT LAND USE DECISIONS

3700. Scope and Applicability. These rules are applicable to all utilities or power authorities. In order for an utility or power authority to appeal a local government action to the Commission under this rule, according to § 29-20-108(5) (a), C.R.S., one or more of the following conditions must be met:

- (a) The utility or power authority has applied for or has obtained a certificate of public convenience and necessity from the Commission pursuant to § 40-5-101, C.R.S., to construct the major electrical facility that is the subject of the local government action;
- (b) A certificate of public convenience and necessity is not required for the utility or power authority to construct the major electrical facility that is the subject of the local government action; or
- (c) The Commission has previously entered an order pursuant to § 40-4-102, C.R.S., that conflicts with the local government action.

3701. Definitions. The following definitions apply only in the context of Rules 3700 - 3706, unless a specific statute or rule provides otherwise.

- (a) "Electric utility" means any person, partnership, cooperative electric association, non-profit electric corporation or association, firm, corporation, whether privately owned or otherwise, when subject to the jurisdiction of this Commission, their lessees, trustees or receivers appointed by any court whatsoever that may now or hereafter be engaged as a public utility in the business of furnishing electricity to domestic, commercial or industrial customers in the State of Colorado.
- (b) "Local Government" means a county, home rule or statutory city, town, territorial charter city, or city and county.
- (c) "Local government action" means any decision, in whole or in part, by a local government which has the effect or result of denying a permit or application of a utility or power authority that relates to the location, construction, or improvement of major electrical facilities, or a decision imposing requirements or conditions upon such permit or application that will unreasonably impair the ability of the utility or power authority to provide safe, reliable, and economical service to the public.
- (d) "Local land use decision" means the decision of a local government within its jurisdiction to plan for and regulate the use of land.

- (e) "Major electrical facility" shall have that meaning set forth in § 29-20-108(3)(a), (b), (c), and (d), C.R.S., or in any other applicable statute.
- (f) "Power authority" means an authority created pursuant to § 29-1-204, C.R.S.
- (g) "Utility" means an electric utility as defined within this rule, or as defined by § 40-1-103, C.R.S.

3702. Applications. In accordance with § 29-20-108(5)(c) and (d), all applications filed with the Commission appealing a local government action shall include the following information:

- (a) A statement of the reasons why the local government action would unreasonably impair the ability of a utility or power authority to provide safe, reliable, and economical service to the public;
- (b) The demonstrated need for the major electrical facility;
- (c) The extent to which the proposed facility is inconsistent with existing applicable local or regional land use ordinances, resolutions, or master or comprehensive plans;
- (d) Whether the proposed facility would exacerbate a natural hazard;
- (e) Applicable utility engineering standards, including supply adequacy, system reliability, and public safety standards;
- (f) The relative merit of any reasonably available and economically feasible alternatives proposed by the utility, the power authority, or the local government;
- (g) The impact that the local government action would have on the customers of the utility or power authority who reside within and without the boundaries of the jurisdiction of the local government;
- (h) The basis for the local government's decision to deny the application or impose additional conditions to the application;
- (i) The impact the proposed facility would have on residents within the local government's jurisdiction including, in the case of a right of way in which facilities have been placed underground, whether those residents have already paid to place such facilities underground, and if so, shall give strong consideration to that fact; and
- (j) Information concerning how the proposed major electrical facilities will affect the safety of residents within and without the boundaries of the jurisdiction of the local government.

3703. Public Hearing. In accordance with § 29-20-108(5)(b), C.R.S., in addition to the formal evidentiary hearing on the appeal, the public utilities commission shall take statements from the public concerning the appealed local government action at an open hearing held at a location specified by the local government.

3704. Scheduling Conference.

- (a) In order to assist the parties in scheduling the open hearing, determining the scheduling of the evidentiary hearing, and developing the list of persons to receive notice of these hearings, the Commission will require a scheduling conference.
- (b) The utility or power authority filing an appeal of a local government action shall file a motion requesting that the Commission conduct a scheduling conference within 30 days after the application is deemed complete by the Commission.
- (c) The local government shall be joined as an indispensable party by the Commission.
- (d) Ten days before the commencement of the scheduling conference, the local government shall submit to the parties and the Commission its preference for the location of the open hearing in accordance with § 29-20-108(5)(b), C.R.S.
- (e) The Commission will decide the date and time of the open hearing after receiving comments from the parties at the scheduling conference.
- (f) By the date of the scheduling conference, each party shall provide to the utility a list of individuals and groups to receive notice of the open hearing.
- (g) The utility will be required to give notice to all the individuals and groups in a manner specified by the Commission. Notice may be accomplished by newspaper publication, bill insert, first class mail, or any other manner deemed appropriate by the Commission.
- (h) If the local government is unable to provide meeting space for the open hearing, and space needs to be acquired, then the utility shall bear any cost associated with the rental of such space for the open hearing.
- (i) The parties are encouraged to confer prior to the scheduling conference to develop a schedule for the filing of testimony and the dates for the formal evidentiary hearing.

3705. Denial of Appeal. In accordance with § 29-20-108(5)(e), C.R.S., the Commission shall deny any appeal of a local government action unless the utility or power authority has complied with the following notification and consultation requirements:

- (a) A utility or power authority shall notify the affected local government of its plans to site a major electrical facility within the jurisdiction of the local government prior to submitting the preliminary or final permit application, but in no event later than filing a request for a certificate of public convenience and necessity pursuant to Article 5 of Title 40, C.R.S., or the filing of any annual filing with the Commission that proposes or recognizes the need for construction of a new facility or the extension of an existing facility. If a utility or power authority is not required to obtain a certificate of public convenience and necessity pursuant to Article 5 of Title 40, C.R.S., or file annually with the Commission to notify the Commission of the proposed construction of a new facility or the extension of an existing facility, the utility or power authority shall notify any affected local governments of its intention to site a major electrical facility within the jurisdiction of the local government when such utility determines that it intends to proceed to permit and construct the facility. Following such notification, the utility or power authority shall consult with the affected local governments in order to identify the specific routes or geographic locations under consideration for the site of the major electrical facility and attempt to resolve land use issues that may arise from the contemplated permit application.
- (b) In addition to its preferred alternative within its permit application, the utility or power authority shall consider and present reasonable siting and design alternatives to the local government or explain why no reasonable alternatives are available.

3706. Procedural Rules. Pursuant to § 29-20-108(5)(b), C.R.S. any appeal brought by a public utility or power authority to the Commission under this section shall be conducted in accordance with the procedural requirements of Article 6 of Title 40 of the Colorado Revised Statutes, including § 40-6-109.5, C.R.S. Evidentiary hearings on any such appeals shall be conducted in accordance with § 40-6-109.

3707. - 3799. [Reserved].

SMALL POWER PRODUCERS AND COGENERATORS

3800. Incorporation by Reference. The Commission adopts by reference the federal regulations of the Federal Energy Regulatory Commission implementing §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978 that are published in 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C (April 1, 2002). This incorporation by reference does not include later amendments to, or editions of, 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C, adopted after April 1, 2002.

3801. How Material Incorporated by Reference May Be Obtained.

- (a) Material incorporated by reference in Rule 3800 may be examined at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except when such days are state holidays.
- (b) The material incorporated by reference may also be examined at any state publications depository library.
- (c) The title and address of the person employed by the commission from whom information concerning how the material incorporated by reference may be obtained or examined is:

Chief, Fixed Utilities Section
Colorado Public Utilities Commission
1580 Logan Street, OL-2
Denver, Colorado 80203

3802. - 3809. [Reserved].

3810. Standards for Operating Reliability and Safety. Rules 3810 to 3849 establish standards, as authorized by 19 C.F.R. § 292.308, to ensure the safe and reliable interconnected operations of cogeneration facilities and small power production facilities ("qualifying facilities") with utilities regulated by the Commission. Utilities should require, as a minimum, compliance with the following standards by qualifying facilities of 25 KW capacity or less.

3811. Responsibility of Utilities to Provide Quality Service.

- (a) A utility shall provide the same quality of service to a new qualifying facility as it provides to existing interconnected qualifying facilities.
- (b) At the request of a qualifying facility prior to interconnection, a utility may evaluate the quality of service to be provided to the qualifying facility. Such evaluation may be used to estimate the effects of interconnection on the quality of service to be provided.
- (c) An evaluation may be used to establish the quality of service that a utility shall provide to a qualifying facility after interconnection.
- (d) The cost of conducting an evaluation shall be included as an interconnection cost of a qualifying facility. If the qualifying facility desires a superior quality of service, any increased cost shall be an interconnection cost of the qualifying facility.

3812. Submission of Design Information by Qualifying Facilities.

- (a) Any person seeking to establish interconnected operations as a qualifying facility shall provide the utility it proposes to interconnect with detailed design information of its proposed facilities at least 150 days prior to the proposed interconnection date. At any time after submission of design information, the utility and the qualifying facility may agree to an interconnection date sooner than 150 days. At the time it provides the detailed design information to the utility, the qualifying facility also shall provide the utility with a copy of all available manufacturers' literature for the equipment to be installed, including installation and operating instructions.
- (b) The design information submitted by a qualifying facility shall be sufficient to enable a utility to assess the impact of the proposed interconnection on the utility's system, operating plans and system-expansion plans.
- (c) A utility shall notify a qualifying facility within 25 days after the receipt of design information, or such longer period as agreed by them, whether the design information is adequate or whether additional information is required. If additional information is required, the utility shall specify in writing what additional information is needed and the qualifying facility shall promptly submit the additional information.

3813. Conferences between Utilities and Qualifying Facilities.

- (a) At the earliest time possible after design information has been provided to a utility, the utility and the qualifying facility shall confer.
- (b) At the conference the utility shall provide the qualifying facility with the names of governmental agencies, which have requirements regulating interconnection, such as electrical codes, construction codes, sizing criteria, setback distances, physical clearances, protective devices, inspections, and grounding practices.
- (c) The utility also shall inform the qualifying facility of the within rules and the safety standards and procedures required for interconnection, such as harmonic content for output voltage levels, recommended use of induction generators, line-commutated inverters, reliable disconnection equipment, etc.

3814. Establishment of Requirements for Qualifying Facilities.

Within 25 days after the submission of design information by a qualifying facility:

- (a) A utility shall establish written requirements for a qualifying facility so that it will not cause extraordinary operation of the utility's protective equipment.

- (b) A utility shall inform a qualifying facility of the existing phasing available to the qualifying facility. The utility shall encourage the qualifying facility to use the existing phasing for the proposed interconnection. The utility shall inform the qualifying facility that any phase imbalances may affect the safety of the proposed service or neighboring customer's loads. In the event that phased loadings of interconnection cause phase imbalances, the cost of equipment to correct the imbalances shall be an interconnection cost of the qualifying facility.

3815. Compliance with Requirements and Rule Standards.

- (a) No qualifying facility shall be interconnected with a utility until it has established, to the satisfaction of the utility, that it has complied with the utility's requirements for interconnected operations and the standards set by Rules 3810 to 3849.
- (b) When a qualifying facility determines that it has complied with all of the requirements of a utility and the standards set by these rules for interconnected operations, it shall give notice of that fact to the utility. Within 25 days after receipt of such notice, the utility and qualifying facility shall arrange for an onsite inspection of the qualifying facility. The utility shall inspect the entire installation, including all systems and equipment, for the purpose of determining compliance by the qualifying facility.
 - (I) If the utility determines from the inspection that the qualifying facility has complied with all of the requirements of the utility and the standards set by these rules, the utility shall certify in writing that the qualifying facility complies.
 - (II) If the utility determines that the qualifying facility has failed to comply with any requirement of the utility or any standard set by these rules, the utility shall notify the qualifying facility in writing of the requirements or standards that the qualifying facility must meet for interconnection. Upon compliance, the qualifying facility shall give notice to the utility and the parties shall then proceed as provided in this paragraph (b).
- (c) When the qualifying facility has obtained compliance certification, the qualifying facility and the utility shall schedule a date for the initial energizing and start-up testing of the qualifying facility's generating equipment. The utility shall be present at this test.
 - (I) At the conclusion of the test, the utility shall certify whether the qualifying facility may commence interconnected operations.

- (II) If the qualifying facility fails the start-up test, the utility shall so notify the qualifying facility in writing. When the qualifying facility has corrected the deficiencies, the parties shall schedule a new start-up test, and the procedure set forth in this paragraph (c) shall be followed.
- (d) In the event of a disagreement between a qualifying facility and a utility regarding compliance by the qualifying facility with the utility's requirements, the standards set by these rules, or the qualifying facility's failure of the start-up test, either party may file with the Commission a petition for a declaratory order under Rule 1304(j) seeking resolution of the disagreement.
- (e) In the event that either party files a petition for a declaratory order, the Commission shall enter an order resolving the dispute. The qualifying facility or the utility shall comply with the Commission's order prior to interconnection.

3816. Code Certification by Qualifying Facilities.

- (a) A qualifying facility shall provide a utility with certification that it has complied with all applicable governmental codes, such as electrical codes, construction codes, sizing criteria, set-back distances, physical clearances, protective devices, inspections, and grounding practices.
- (b) A qualifying facility shall obtain such certification at its own cost.

3817. Limits of Magnitude of Qualifying Facilities.

- (a) For purposes of the safety, reliability, and capacity of a utility's systems, a utility shall establish practical upper limits for the magnitude of qualifying facility installations. The utility shall estimate the potential effects of aggregate interconnection of all interconnected qualifying facilities.
- (b) The practical upper limits and aggregate effects of interconnection established by a utility shall be initially developed and filed with the Commission within six months after the effective date of these rules, unless previously filed with the Commission. A utility may use general data to determine the upper limits and aggregate effects of interconnection, if it does not have specific data available. If specific data is available, a utility shall use such specific data for the establishment of the upper limits.
- (c) If a utility determines that existing interconnections are creating, or proposed interconnections may create, safety, reliability, or capacity problems, the utility may apply to the Commission for a moratorium on further interconnections. The utility shall give notice of the application to all

interconnected qualifying facilities and any qualifying facility seeking interconnection with the utility. The burden shall be on the utility.

3818. Access by Utilities to Premises of Qualifying Facilities.

- (a) A utility shall have access to a qualifying facility prior to construction to determine if minimum setback distances and physical clearances will be met for the safety of the utility's and qualifying facility's equipment. The cost of said inspection shall be included as an interconnection cost of the qualifying facility.
- (b) A utility shall have access to a qualifying facility to repair, maintain, or retrieve any of its equipment affected by a failure of the utility's or qualifying facility's equipment.

3819. Coordination of Circuit Protection Equipment.

- (a) Prior to interconnection, and at the earliest time possible after a qualifying facility provides its design information, a utility shall determine if its circuit protection equipment can accommodate the equipment of the qualifying facility.
- (b) A utility shall evaluate the effects of a proposed interconnection, together with the aggregate effects of all other interconnections, on the utility's installed circuit protection equipment. Pre-engineering costs incurred prior to interconnection shall be a cost of the qualifying facility. Pre-engineering costs shall not include routine normal evaluation of the proposed interconnection.
- (c) As part of normal planning, a utility shall evaluate the interaction between a qualifying facility's operations and the utility's installed circuit protection equipment. The cost of evaluation shall be an interconnection cost of the qualifying facility.
- (d) If the design of a qualifying facility causes replacement or significant re-coordination of the circuit protection equipment of a utility, or if the design reasonably can be expected to require extraordinary operation of the utility's installed protection equipment, the utility shall not interconnect with the qualifying facility. The utility may decline to interconnect until the design has been modified to eliminate the problems, or until specific modified designs for the interconnection are established. Replacement and re-coordination costs shall be an interconnection cost of the qualifying facility.
- (e) A qualifying facility shall provide the utility with a description of the qualifying facility's electrical and mechanical equipment sufficient for the utility to determine the safety and adequacy of its installed service drops and supply

equipment. Such information shall be supplied by the qualifying facility at the time it submits its design information to the utility.

3820. Installation of Protective Equipment by Qualifying Facilities to Accommodate Protection Equipment of Utilities.

- (a) Within 25 days after a qualifying facility submits its design information, a utility shall notify the qualifying facility of the necessity to install protective equipment to accommodate the utility's system protection equipment.
- (b) Such notification shall be made in writing and shall list the specific types of protective equipment required, the operations of the utility which necessitate protection, and the possible effects upon a qualifying facility's system if it fails to install the required protective equipment.
- (c) A utility shall not be responsible for the effects on a qualifying facility's equipment and systems that are caused by the system or equipment of the utility, such as reclosures and sectionalizers.

3821. Grounding Qualifying Facility Equipment.

- (a) A utility shall establish grounding practices that are commensurate with those in the area, taking into consideration soil conditions, the nature of other loads in the area, and the utility's experience. Grounding practices shall be consistent with applicable national, state, and local codes. A qualifying facility shall ground all equipment to meet governmental codes and the utility's requirements.
- (b) A utility shall advise a qualifying facility of its grounding requirements and applicable governmental codes within 25 days after the qualifying facility submits its design information.
- (c) If the grounding of a qualifying facility's equipment degrades safety, necessitating improvements or modifications of the interconnection, the responsibility and cost of such improvements or modifications shall be on the qualifying facility.
- (d) In the event that grounding of a qualifying facility causes electro-magnetic interference with telephone service, radio or television reception, or the operation of other electrical devices, it shall be the responsibility of the qualifying facility to make the necessary grounding modifications to remove such interference. The cost of such modifications shall be an interconnection cost of the qualifying facility.
- (e) No qualifying facility shall commence interconnected operations until it obtains certification that it has complied with all

applicable governmental codes, and the utility approves the grounding of the qualifying facility's equipment.

3822. Standards for Harmonics and Frequency.

- (a) A utility shall establish standards for the harmonic content of power and energy generated by qualifying facilities. Such standards shall not be more stringent than those of the utility's bulk power suppliers.
- (b) No qualifying facility shall commence interconnected operations until it establishes, to the satisfaction of the utility, that it will produce power and energy at a fundamental frequency of 60 HZ, and that such power will not exceed the standards required for harmonic content.
- (c) A utility shall not be responsible for onsite interference caused by harmonics (such as heating), failure of motors, interference with telephone service or television or radio reception, and other manifestations of degraded quality of service, caused by the failure of a qualifying facility to produce power and energy at 60 HZ.

3823. Interconnection at Different Voltage Levels.

- (a) A qualifying facility shall interconnect with a utility at the utility's established secondary voltage level, unless the utility agrees to an interconnection at a different voltage level.
- (b) An interconnection at a different voltage level that requires the utility to install different or additional protective equipment, or that requires the utility to make other modifications of its system shall be an interconnection cost of the qualifying facility.

3824. Types of Generators and Inverting Equipment.

- (a) A utility shall establish standards to encourage qualifying facilities to use induction generators and line-commutated inverters, rather than synchronous generators and self-commutated equipment, in order to minimize the possibility of reverse power flow during periods of line outages. Such standards, however, shall not exclude the use of synchronous generators.
- (b) A utility shall adopt power factor standards at the point of interconnection. Such standards shall recognize that a qualifying facility may not produce excessive reactive power during off-peak conditions and may not consume excessive reactive power during on-peak conditions.
- (c) A qualifying facility's abnormal power factor that causes deleterious effects on a utility's system shall be corrected by the utility at the expense of the qualifying facility.

Deleterious effects on a qualifying facility's system caused by its abnormal power factor shall be corrected by the qualifying facility at its own expense.

3825. System Protection Equipment.

- (a) Prior to interconnection, a qualifying facility shall install protective equipment that will automatically disconnect its generating equipment from a utility's power lines in the event of failure of its generating equipment or a power line outage.
 - (I) Such protective equipment, or separate equipment, shall have the ability to isolate the energy generated or supplied by a utility or by a qualifying facility. Such equipment shall be accessible to the utility and the qualifying facility.
 - (II) A utility shall have the right to operate such protective equipment whenever, in its judgment, it is necessary to maintain safe operating conditions, or whenever the operations of a qualifying facility adversely affect the utility's system.
 - (III) A qualifying facility shall have the right to operate such protective equipment whenever, in its judgment, it is necessary to maintain safe operating conditions, or whenever the operations of a utility adversely affect the qualifying facility's equipment.
 - (IV) Protective equipment that isolates a qualifying facility's generation shall be lockable by a utility only in the open position. Equipment that isolates a utility's generation or supply shall be lockable by a qualifying facility only in the open position. Such equipment shall be installed so that there can be visual verification that the equipment is locked in the open position.
- (b) Prior to interconnection, a utility shall require a qualifying facility to operate its protective equipment to the satisfaction of the utility.
- (c) A qualifying facility shall install fused protection between major components of all switched interconnections.
- (d) A qualifying facility shall install protective relaying equipment to confine the effects of faults, lightning strikes, or other abnormalities and to protect its and a utility's equipment.
- (e) If a qualifying facility makes significant modifications to its equipment, or if future difficulties arise on the systems of the qualifying facility or utility as a result of the interconnection, the utility may require different or additional protective equipment, or may require modifications as a condition

of continued interconnected operations. The cost of such protective equipment or modifications shall be a cost of the qualifying facility.

- (f) No specific number of system protective devices is required by this rule.

3826. Meters.

- (a) A utility shall, at cost, supply, install, and maintain meters to measure the generation of a qualifying facility.
- (b) A qualifying facility shall supply, at no expense to the utility, a suitable location for the installation of meters.
- (c) The cost of meters, their installation and maintenance shall be an interconnection cost of the qualifying facility.

3827. Maintenance and Inspection of Qualifying Facilities.

- (a) Prior to interconnection, a qualifying facility shall establish a schedule of planned maintenance containing dates, times, and procedures. No qualifying facility shall commence interconnected operations until the utility approves the proposed maintenance schedule. The utility shall not withhold approval unreasonably.
- (b) A utility shall establish written procedures for inspecting a qualifying facility and shall provide a copy of the procedures to the qualifying facility prior to interconnection. Inspection procedures may be modified on a case-by-case basis.
- (c) A qualifying facility shall keep records of maintenance and a utility shall keep records of inspections. Each shall have access to the records of the other.
- (d) A utility may inspect a qualifying facility, on demand, to determine if the qualifying facility is complying with the previously approved maintenance schedule and is safely operating all protective equipment, such as relays, circuit breakers at the interconnection, and tripping breakers on protective relays.
- (e) A utility may inspect the records of a qualifying facility, on demand, to determine if the qualifying facility is, or has been, reselling the utility's energy and/or capacity to the utility.
- (f) Personnel from both a utility and a qualifying facility shall witness inspections, except inspections to determine safety or the reselling of the utility's energy or capacity to the utility. For such inspections, the utility shall inform the qualifying facility that it may have personnel present during the inspection. If the qualifying facility declines, the inspection shall be conducted without the presence of qualifying-facility personnel.

3828. Disconnection of Qualifying Facilities.

- (a) If a utility determines that a qualifying facility has not complied with its maintenance schedule, its protective equipment is not operating properly, or has been reselling the utility's energy or capacity to the utility, the utility may disconnect the qualifying facility without notice, or may give the qualifying facility up to 30 days notice of disconnection.
- (b) A notice of disconnection shall inform the qualifying facility of the maintenance to be performed, the operational practices to be modified or terminated, or the repairs to be made to protective equipment to prevent disconnection. The qualifying facility shall comply with all requirements prior to the date of the proposed disconnection in order to avoid disconnection. The qualifying facility shall notify the utility when it has complied, at which time the utility shall re-inspect the facility. If the utility determines that the qualifying facility has complied, the qualifying facility shall not be disconnected. If the utility determines that the qualifying facility has not complied, the qualifying facility shall be disconnected as provided in the notice of disconnection.
- (c) A utility and a qualifying facility may agree to a reasonable continuance of a disconnection, or to a reconnection where the qualifying facility has been disconnected, if the utility believes that the qualifying facility is making a bona fide effort to comply. Where the qualifying facility has been disconnected for reselling the utility's energy and/or capacity to the utility, the agreement may be conditioned on the qualifying facility paying the utility for the resold energy and/or capacity.

3829. Qualifying Facilities to File Generation Schedule. A qualifying facility, other than one dependent on intermittent sources of energy, such as solar or wind, shall provide a utility with a proposed schedule of generation prior to interconnection. The schedule may be used by the utility to coordinate normal maintenance of its distribution facilities, to coordinate its bulk power supplies, or for the safety of maintenance personnel by coordinating regular operations.

3830. - 3849. [Reserved].

3850. Indemnification and Insurance.

- (a) A utility shall indemnify a qualifying facility against all loss, damage, expense, and liability to third persons for injury or death caused by the utility's ownership, construction, operation, maintenance, or failure of its facilities used in the interconnected operations. The utility, at the request of the qualifying facility, shall defend any suit asserting a claim covered by its indemnification. The utility shall pay all costs

incurred by the qualifying facility to enforce this indemnification.

- (b) A qualifying facility shall indemnify a utility against all loss, damage, expense, and liability to third persons for injury or death caused by the qualifying facility's ownership, construction, maintenance, or failure of its facilities used in the interconnected operations. The qualifying facility, at the request of the utility, shall defend any suit asserting a claim covered by its indemnification. The qualifying facility shall pay all costs incurred by the utility to enforce this indemnification.
- (c) A utility and a qualifying facility shall hold each other harmless from liability for damages caused to the facilities of the other party by reason of the improper or faulty operation, or non-operation of their facilities.
- (d) A qualifying facility shall obtain liability insurance in an amount a utility determines reasonably adequate to protect the public and the utility against damages caused by the interconnected operations. Prior to interconnection, the qualifying facility shall provide the utility with a current, valid certificate of insurance naming the utility as a beneficiary.

3851. Discontinuance of Sales or Purchases During System Emergencies, and Notice.

- (a) A qualifying facility shall be required to provide energy or capacity to a utility during a system emergency, as provided in 18 C.F.R. § 292.307(a).
- (b) A qualifying facility, which discontinues sales to or purchases from a utility
 - (I) Shall make a reasonable effort to notify the utility by telephone prior to discontinuance. If the qualifying facility is unable to give prior telephone notice to the utility, the qualifying facility shall notify the utility by telephone no later than two hours after the termination of the emergency. No utility shall be entitled to telephone notification under this rule unless it provides its current telephone number to the qualifying facility.
 - (II) Shall give written notice to the utility no later than three business days after the termination of the emergency causing the discontinuance. The written notice shall describe the emergency and duration thereof and the reasons for the discontinuance.
- (c) During a system emergency, as defined in 18 C.F.R. § 292.201(b)(4), a utility may discontinue purchases from a

qualifying facility as provided in 18 C.F.R. § 292.307(b). A utility, which discontinues purchases from or sales to a qualifying facility

(I) Shall make a reasonable effort to notify the qualifying facility by telephone prior to discontinuance. If the utility is unable to give telephone notice to the qualifying facility prior to discontinuance, the utility shall notify the qualifying facility by telephone no later than two hours after the termination of the emergency. No qualifying facility shall be entitled to telephone notification under this rule, unless it provides its current telephone number to the utility.

(II) Shall give written notice to the qualifying facility no later than three business days after termination of the emergency causing the discontinuance. The written notice shall describe the emergency and duration thereof, and the reasons for the discontinuance.

3852. Other Discontinuances. Prior to any other type of temporary discontinuance of purchases or sales, the utility or qualifying facility shall notify the other party as provided in Rule 3851. However, such notification shall not be required if the parties previously had agreed upon the discontinuance, or if the discontinuance is less than fifteen minutes in duration. When the duration of a discontinuance is fifteen minutes or more, the utility or qualifying facility shall provide the notice required by Rule 3851.

3853. Exemption of Qualifying Facilities From Certain Colorado Laws and Regulations, and Waivers.

- (a) A qualifying facility shall be exempt from Colorado law and regulations as provided in 18 C.F.R. § 292.602(c).
- (b) The exemption provided for in 18 C.F.R. § 292.602(c) shall not divest the Commission of the authority to review contracts for purchases and sales of power and energy under §§ 201 and 210 of PURPA.

3854. Reporting Requirements for Utilities.

- (a) Each utility shall file a written report with the Commission within 30 days after the last working day of March, June, September and December containing the information required by this rule for each qualifying facility, by class, such as co-generation, hydro, wind, solar, biomass/waste, etc. For purposes of this rule a qualifying facility under active discussion or negotiations shall mean a qualifying facility where either preliminary engineering design data has been provided by the qualifying facility to the utility or where contract negotiations between the utility and the qualifying facility have commenced.

- (b) The report shall contain the following general information:
- (I) The total number of contracts the utility has with qualifying facilities;
 - (II) The total number of KW provided by such contracts;
 - (III) The total MWH provided by such contracts, by class, during the 12 months prior to the date of the report; and
 - (IV) The total annual MWH projected to be provided by qualifying facilities under active discussion or negotiation, by class.
- (c) The report shall contain the following specific information as to each qualifying facility:
- (I) The name and location of the qualifying facility;
 - (II) The name, address and telephone number of the owner or principal developer of the qualifying facility;
 - (III) The utility's percentage ownership, if any, in the qualifying facility;
 - (IV) A description of the technology used or to be used in the qualifying facility, such as, wind turbine, hydro, combustion turbine, topping or bottoming cycle;
 - (V) The fuel source and type of fuel used or to be used in the qualifying facility;
 - (VI) The proposed pattern of operation, if the parties are negotiating a contract, including the size of the qualifying facility by capacity (KM) and by energy (KWH) for each season;
 - (VII) The pattern of operation under an existing contract, the monthly capacity and energy delivered by the qualifying facility, and the monthly payments by the utility for the purchase of capacity and energy;
 - (VIII) The construction schedule of a proposed qualifying facility and the estimated date of commercial operation; and
 - (IX) The status of FERC certification or de-certification of a qualifying facility under contract or active discussion or negotiations.
- (d) If a qualifying facility of 2 MW or more comes under active discussion or negotiations, the utility shall inform the

Commission by letter of the information required by paragraph (c) of this rule within seven days.

- (e) Within 20 days after the effective date of this rule, each utility, if it has not previously done so, shall file with the Commission the utility's current interconnection requirements, standard contracts and forms, schedule of engineering fees, interconnection fees, meter reading fees, other fees, and insurance requirement.
- (f) If a utility changes a fee, the utility shall inform the Commission of the amount of the new fee within 10 days after the change.
- (g) This rule shall not apply to a cooperative electric association, which has voted to exempt itself from regulation under Articles 1 to 7 of Title 40, C.R.S., but to be regulated under Article 9.5 of Title 40, C.R.S.

3855. - 3899. [Reserved].