

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-519E

IN THE MATTER OF THE PROPOSED REPEAL AND RE-ENACTMENT OF ALL RULES
REGULATING ELECTRIC AND STEAM UTILITIES, AS FOUND IN 4 CCR 723-3, 10, 19
AND 32.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
REPEALING AND ADOPTING RULES**

Mailed Date: May 4, 2005

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I. STATEMENT

1. On December 15, 2003, the Public Utilities Commission issued the Notice of Proposed Rulemaking which commenced this docket. Decision No. C03-1370. The purpose of this proceeding is to repeal existing rules pertaining to electric and steam service and to promulgate a complete replacement set. That notice invited interested persons to participate in the rulemaking by submission of written comments and/or by presentation of oral comments.

2. Appended to that notice as Attachment B were proposed rules. That notice clarified that the proposed rules were intended to cover the same subject matters as, and to replace in their entirety, the following Commission regulations: (a) Rules Regulating the Service of Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3; (b) Rules Regulating Applications Filed in Accordance with § 40-3-104.3, C.R.S., Concerning the Authority of the Public Utilities Commission to Flexibly Regulate Gas, Electric, or Steam Utilities, 4 CCR 723-10; (c) Rules Implementing Sections 201 and 210, Public Utility Regulatory Policies Act, Small Power Production and Cogeneration Facilities, 4 CCR 723-19; and (d) Rules Concerning Appeals of Local Government Land Use Decisions Brought by a Power Utility or Power Authority to the Public Utilities Commission under § 29-20-108, C.R.S., 4 CCR 723-32.

3. The proposed repeal and promulgation in part of an effort by the Commission to revise and to recodify its rules now in effect. The Commission stated in its notice that the proposed repeal and recodification is intended to update the existing rules for electric and steam utilities; to the extent possible, to adopt rules for those utilities which are consistent with other

Commission rules; to improve administration and enforcement of relevant sections of Title 40, C.R.S.; to improve administration of, and proceedings brought pursuant to, § 29-20-108, C.R.S.; to eliminate unnecessary or burdensome regulation; to improve the readability of, and ease of referencing to, the rules; and overall to improve the regulation of electric and steam utilities and of proceedings before the Commission.

4. Because this rulemaking proceeding is part of a comprehensive effort by the Commission to revise all rules, the Commission believed it was important to coordinate the instant rulemaking with other rulemaking proceedings currently before the Commission, such as the rules regulating practice and procedure, telecommunications, transportation, water, gas, and railroads. The Commission stated that it would consider suggestions addressing how any of the proposed rules might be made more efficient, rational, or meaningful.

5. The Commission initially issued a notice of proposed repeal and reenactment of the electric and steam rules in Docket No. 02R-279E. At the request of the participants in that proceeding, the Commission terminated that rulemaking so that workshops on the proposed rules might be held. During the summer and fall of 2003, Staff of the Commission (Staff) held a series of workshops on the proposed changes to the existing electric, steam, gas, and telecommunications rules. The workshops helped the Commission and its Staff to identify areas in the rules which needed improvement, areas where the participants in the workshops could agree, and areas where the participants could not reach agreement. With respect to the energy-related (*i.e.*, electric, gas, and steam) workshops, the following participated: Aquila, Inc., doing business as Aquila Networks-WPC; Atmos Energy; Colorado Business Alliance; Colorado Natural Gas Company; Colorado Office of Consumer Counsel; Colorado Rural Electric Association; Energy Outreach Colorado; Kinder Morgan, Inc.; Public Service Company of

Colorado (Public Service Company); Staff; and Tri-State Generation and Transmission Association.

6. The workshops were informative and assisted the participants but did not produce results which are binding on the Commission. The fact that an area or a rule was not discussed in, or agreed to in, the workshops does not limit or restrict in any way the Commission's authority or ability to promulgate a rule or to change the language of a proposed rule in this docket. Similarly, the fact that the participants (or a majority of the participants) in the workshops agreed to the language of, or to a concept embodied in, a proposed rule does not limit or restrict in any way the Commission's authority or ability to promulgate a rule or to change the language of a rule in this docket.

7. The undersigned Administrative Law Judge (ALJ) held hearings on the proposed rules. Hearings were held on March 8 and 9, 2004, July 13 and 14, 2004, October 12 and October 13, 2004, and March 17, 2005. Written comments or oral comments, or both, were provided by: Aquila, Inc., doing business as Aquila Networks-WPC; Castle Pines North Association, Inc.; Colorado Office of Consumer Counsel; Colorado Rural Electric Association; Energy Outreach Colorado; Public Service Company; Tri-State Generation and Transmission Association; and Western Resource Advocates.¹ In addition, Staff made oral presentations addressing the general procedural background of this matter and identifying areas of change between existing rules and the proposed rules. Hearing Exhibits No. 1 through and including No. 8 were offered and admitted into the record.

¹ Western Resource Advocates filed a Request for Leave to File Late Reply Comments. Because these comments were not late-filed, the request will be denied as moot. The Reply Comments of Western Resource Advocates were considered.

8. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding along with a written recommended decision.

II. DISCUSSION

9. Rulemaking is a quasi-legislative function. Rulemakings encompass a range of determinations, with one end of the continuum being regulations based purely on policy considerations and the other end of the continuum being regulations the need for which may turn upon proof of discrete facts. *Citizens for Free Enterprise v. Department of Revenue*, 649 P.2d 1054 (Colo. 1982). The majority of the rules in this rulemaking fall towards the policy end of that continuum.

10. The statutory authority for the rules promulgated by this Decision is found in §§ 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, 40-5-103, and 40-9.5-107(5), C.R.S. As these statutory provisions -- and controlling decisions of the Colorado Supreme Court -- make clear, the industries subject to these rules are monopoly service providers which the Commission fully regulates. This core fact distinguishes these industries from telecommunications and, to a large extent, accounts for the relatively more stringent requirements placed on electric and steam utilities as compared to telecommunications providers.

11. The rules attached to this Decision as Appendix A substantially change the existing rules, and some change the proposed rules. Many requirements found in the existing rules have been modified to reflect current conditions (*e.g.*, the existing requirement for weekly testing of meter testing equipment and facilities is eliminated), and there are "grand-fathering" provisions (*see, e.g.*, rule 3301 (location of service meters)), as necessary and appropriate, to

permit the *status quo* to carry forward. Some of the notable changes to the rules will be discussed in the following paragraphs.

12. There is an area which these rules do not address: Amendment 37. In November 2004 the Colorado Constitution was amended by the addition of Amendment 37 which pertains to the use of renewable energy sources by electric utilities. At first blush, it would appear that the electric rules promulgated by this Decision should reflect this amendment; they do not. The Commission has initiated a separate proceeding (Docket No. 05R-112E) to promulgate rules pertaining to Amendment 37. Any new rules, or changes to the rules contained in Appendix A to this Decision, which are necessary to implement Amendment 37 will result from that separate rulemaking proceeding.

13. Myriad changes have been made to the rules as noticed. Some of these are minor, many are uncontested, and they will not be discussed in the body of this decision. In addition, the format of some rules was changed so that the format is consistent with that used throughout the rules. Grammatical changes or changes for clarity were made to some rules. These changes are in the rules attached to this Decision. To allow interested persons to see all the changes made, the rules as originally proposed with the changes adopted by this Decision shown in legislative drafting format (*i.e.*, track changes showing) are posted on the Commission's website.²

A. General Structure of the Rules

14. As part of its overall objective to improve consistency between rules, the Commission has adopted a rule numbering convention that uses a four-digit approach with the

² Rule, section, and subsection numbers referenced in this Decision are the numbers found in Appendix A to this Decision. In many cases, the numbers are different from those of the proposed rules. By using the red-lined version available on the Commission's website, one should be able to find the original number.

first digit corresponding to the specific industry. For example, the electric and steam rules are the 3000 series; and the natural gas rules are the 4000 series.

15. Within each of these series, the rules are grouped into specific sub-series. Thus, irrespective of the industry (water, electric, steam, or gas) each set of rules has the following: the x000 rules which are general provisions; the x100 rules which pertain to operating authority; the x200 rules which pertain to facilities; the x300 rules which pertain to meters; the x400 rules which pertain to customer billing and service; and the x500 rules which pertain to cost assignment and cost allocation. Sprinkled throughout these sub-series are rules which are specific to an industry. For example, the voltage requirements found in rule 3202 and the least-cost planning rules found in the 3600 sub-series are peculiar to the electric industry.

16. In addition to the standardization of the sub-series, the rules use a standard outline format.

17. Finally, these electric and steam rules use identical -- or nearly so -- language to that used in the corresponding gas rule. For example, the general application requirements in rule 3002 are the same as those requirements in rule 4002 (applicable to gas). The same is true of the language in the billing and service rules (x400 sub-series) and the appeals of local government land use decisions rules (x700 sub-series). There are slight variations made necessary by differences between industries or in applicable statutory language.

18. This overall approach should make it easier for interested persons to find an applicable rule irrespective of the specific industry involved. In addition, standardization should improve Commission-industry interactions and processes because the requirements are clear and are uniform (insofar as possible given industry and statutory language differences) across regulated industries.

B. General Provisions (rules 3000 to 3009)

19. Sections (b), (c), and (d) of rule 3000 contain listings which inform steam and electric utilities, and each type of electric utility, about which rules apply to them. A commenter recommended that the steam rules should be a separate set of rules, but that recommendation was not adopted. The current structure appears to work, and the commenter did not provide rule changes to implement its recommendation. After some practical experience with these rules, should it appear that steam rules ought to be separated, an interested person may petition to amend the rules or the Commission may undertake a rulemaking *sua sponte*.

20. Definitions are found in rule 3001. There is a definition of "affiliate" which is similar to the definition adopted by the Federal Communications Commission in its Uniform System of Accounts, 47 *Code of Federal Regulations* (CFR) § 32.9000, glossary of terms. There is a definition for "applicant for service," for "benefit of service," for "regulated charges," and for "unregulated charges" in the rules. Each of these was added because the term is used in the billing and service rules. Similarly, definitions were added for terms used in other rules where it seemed appropriate to define the term.

21. The definition of "customer" incorporates two concepts: first, a person who is currently receiving service from a utility regardless of the customer's legal structure or status and, second, a person who moves within the service territory of the utility and obtains utility service at a new location within 30 days of terminating service at the old location.

22. Definitions for "distribution facilities," for "distribution extensions," for "transmission facilities," and for "transmission extensions" are included to differentiate these types of facilities and activities. Given the differences in the definitions of "distribution" and "transmission" used by various electric utility, the rule definitions are necessarily general and are

tioned to function and not to specific voltage levels. If it wishes to do so, a utility may provide the line of demarcation between its transmission and distribution in its tariffs.

23. Rule 3002 establishes who may file an application, under what circumstances an application must be filed, and the information that must be included in the application. Commenting utilities urged that rule 3002 be changed to make it clear that only a utility may file an application; this change was made. The requirements of this rule apply to all applications filed under the 3000 series. In response to comments, changes were made to the rule to reduce what must be provided (*see, e.g.*, rule 3002(b)(IX) and the elimination of proposed rule 3002(c)(V)) and to reduce the number of statements which an applying utility must make (*see* rule 3002(b)(VII) and rule 3002(b)(XI)(D)). The requirement that an application be verified is necessary, and is retained, because it provides the sworn evidentiary record upon which the Commission can decide an unopposed, uncontested application.

24. Rule 3004 provides for dispute and informal complaint resolutions. This section clarifies the distinction between customers' disputes directly with the utility and informal complaints made to the External Affairs section of the Commission and also contains record-keeping requirements for both.

25. Utility commenters objected to the requirement, found in rule 3004(e) and in the billing and service rules (the 3400 sub-series), that a utility inform a customer or an applicant for service of that person's right to make an informal complaint to the External Affairs section of the Commission. Utility commenters also objected to the requirement, found in the billing and service rules, that a utility inform a customer of that person's right to file a formal complaint with the Commission. They stated that these requirements might encourage frivolous or unfounded informal and formal complaints, thus skewing the results of a performance-based regulation plan

which contains a metric which measures complaints and thereby imposing penalties on a utility subject to such a plan. They urged that the requirements be eliminated. The requirements are retained. First, the rules apply to all utilities, are more far-reaching than one utility, and will be in effect longer than a time-limited utility-specific performance-based regulation plan. Second, not all utilities are subject to a performance-based regulation plan; and rules of general applicability should not be written to accommodate one utility. To accommodate individual situations, a utility has available the option of seeking a waiver of or variance from a rule. Third, persons must be aware of their rights in order to take advantage of them. These notice requirements are the avenue by which customers and persons applying for service are informed of their avenues of redress. Fourth and finally, as noted by the Office of Consumer Counsel, a utility which believes that the results of a complaint-measuring metric are being affected by this rule change and which has accumulated data (for example, over a year or so) to substantiate its claim can apply to the Commission to change the affected metric.

26. Certain sections contained in the existing Rules of Practice and Procedure (4 CCR 723-1) were moved into industry-specific rules in order to make the rules, including these rules, more complete and easier to use. Rules moved from the existing practice and procedure rules into the electric and steam rules include annual reports, moved from Rule 4 CCR 723-1-25 to rule 3006.

27. Utility commenters suggested that rule 3008 (incorporation by reference) be amended to state simply that the most current version of the identified federal regulations, of the National Electric Safety Code, and of the other referenced publications is incorporated. They noted that it is often the case that the version incorporated into the Commission regulations is not the most current one and that, as utilities are required by federal law or local building codes to

comply with the most current version, the affected utilities are faced with conflicting requirements. The situation described by the utilities may exist, but it is created by the language of § 24-4-103(12.5)(c)(I), C.R.S., which states: "The reference to any incorporated material shall identify the incorporated material by appropriate agency, organization, or association and by date, title, or citation. The reference shall also state that the rule does not include later amendments to or editions of the incorporated material." The Commission cannot adopt the suggestion of the utility commenters. To address conflicting requirements, an affected utility can file a petition for rulemaking to amend rule 3008 (or any other rule which contains an incorporation by reference) when an incorporated document is changed.

28. The Office of Consumer Counsel and Energy Outreach Colorado urged the Commission to adopt additional reporting and record-keeping requirements. The suggested changes to rules 3005 and 3006 are not adopted. The need for the additional reports and record-keeping is not evident. In addition, if it wishes to obtain the data, the Commission can do so by requiring the submission of a special report.

C. Operating Authority (rules 3100 to 3111)

29. Some sections contained in the existing Rules of Practice and Procedure (4 CCR 723-1) were moved into industry-specific rules in order to make the rules more complete and easier to use. The rules moved from the practice and procedure rules into these electric and steam rules include: advice letters, moved from Rule 4 CCR 723-1-40 to rule 3111; new or changed tariffs, moved from Rule 4 CCR 723-41 to rule 3110; applications for transfers, controlling interest, and merger, moved from Rules 4 CCR 723-1-42 and 4 CCR 723-1-55 to rule 3104; applications for certificates of public convenience and necessity, moved from Rule 4 CCR 723-1-55 to rules 3100, 3101, and 3102; applications to amend certificates of public convenience

and necessity, moved from Rules 4 CCR 723-1-55 and 4 CCR 723-1-57 to rule 3103; and applications pertaining to securities, moved from Rule 4 CCR 723-1-56 to rule 3105.

30. Commenting utilities stated that the documents to be filed with an application for transfers, controlling interest, and mergers (rule 3104(b)(III)) ought to be limited to the pertinent documents and ought not to include all documents pertaining to the proposed transaction. This limitation is reasonable and was adopted. The Commission can obtain additional documentation, if required, through audit or discovery.

31. Utility commenters suggested that rule 3104(b)(V) be changed to remove the requirement that an application to transfer a certificate of public convenience and necessity, to obtain a controlling interest in a utility, to transfer assets subject to the jurisdiction of the Commission, to transfer stock, or to merge a utility with another entity contain "an evaluation of the benefits and detriments [of the proposed action] ... to all other persons who will be affected by the transaction which is the subject of the application." This suggestion was not adopted. The Commission's "public interest" determination is based, in part, on evaluation of consumer welfare maximization. Necessarily, this involves consideration of the impact of the proposed action on a range of persons broader than simply the utility's customers. The language of rule 3104(b)(V) reflects that broader inquiry.

32. Rule 3106 (applications for liens) did not appear in the proposed rules. Section 40-1-104, C.R.S., applies to both securities and to liens. In keeping with that grouping, proposed rule 3105 applied to both securities and liens. Review of rule 3105's language revealed that it did not address liens adequately. As a result, rule 3106 was created to address liens specifically. The requirements found in this rule are taken from the Commission's decision in the Aquila, Inc., application to place a lien on its facilities used to provide regulated utility service,

Docket No. 03A-177SEG. The structure of rule 3106 mirrors that of rule 3105. The addition of rule 3106 caused a renumbering of rules 3107 through 3111.

33. A utility commenter suggested that the word "retail" be added to rule 3109 with respect to contracts to be kept on file with the Commission. This suggestion was not adopted as it would have eliminated, for example, the requirement that a utility file its contracts with qualifying facilities and other power purchase agreements.

34. As a point of clarification, one utility commented that rule 3110(c) appeared to mandate the symbols used to identify changes in tariffs. Rule 3110(c) does not mandate use of any particular symbols, as evidenced by the use of "for example" in the section.

D. Facilities (rules 3200 to 3210)

35. Rule 3204 changes a utility's reporting requirements for incidents.³ The rule requires a utility to inform the Commission within 2 hours of an incident and to submit a written report within 30 days of the incident. This is a change from the current rules which require a utility to notify the Commission of an incident "as soon as possible." Utility commenters stated that to make an initial report within two hours was too soon because information would be sketchy, and they recommended a return to the language of the current rule. This suggestion was not adopted. The current rule language is too vague. The purpose of the notification is just that: notification. There is no expectation that a complete report will be available or will be made within two hours; that is the purpose of the written report to be filed within 30 days. The utility commenters also suggested that a report on a utility's internal investigation of the incident be presumptively confidential. This suggestion was not adopted. If a utility wishes to have any

³ As proposed this rule addressed "accidents." Use of "incidents" is preferable because it is less value-laden and avoids apparent conclusions about the cause.

submission treated as confidential, it may do so by following the requirements of the Rules Regulating Practice and Procedure. There is nothing in the record of this rulemaking which supports the creation of the suggested presumption of confidentiality.

36. Rules 3205 and 3206 address the filing which a utility makes for a determination of which of the utility's proposed new construction or expansions require a certificate of public convenience and necessity and which are necessary in the ordinary course of business and thus require no certificate of public convenience and necessity. The three-year horizon in these rules has been changed from that contained in the proposed rules. The rules now require a three-year horizon commencing with the calendar year following the year in which the filing is made. This allows additional time for a utility to file, and for the Commission to decide, a required application for a certificate of public convenience and necessity without adversely affecting the project's construction schedule.

37. Rule 3205(b)(I) states that an expansion which will result in an increase in generating capacity of less than ten megawatts is presumed to occur in the ordinary course of business and, as a result, does not require a certificate of public convenience and necessity. Commenting utilities urged the Commission to raise that number to 30 megawatts to be consistent with rule 3611. This was not done. The two rules serve very different functions. Rule 3205 addresses when a utility must file with the Commission for a determination of whether a certificate of public convenience and necessity is required, and rule 3611 addresses the circumstances in which a utility must acquire resources through a competitive acquisition process. It is inappropriate to permit a project which will add 30 megawatts to a utility's generating capacity, and which will be paid for by that utility's ratepayers, to be constructed and to be placed in service without any Commission determination or review; a 30-megawatt

addition in generating capacity is simply too large to fall within the presumption created by rule 3205(b)(I).

38. A utility commenter offered changes to rule 3206 to incorporate a standard for the 2004 addition of § 25-12-103(12), C.R.S., which provides that the Commission, either by rule or on a case-by-case basis, may determine reasonable noise levels for transmission facilities. The proposed rule change would have added a section (e) to rule 3206; would have included a definition of "cost effective mitigation"; and would have added a list of steps which a utility might take to reduce exposure to noise from a proposed transmission facility. The Commission has yet to have an opportunity to examine and to develop through case law the meaning of "cost effective mitigation" in the context of the statute, and so the proposed definition was not incorporated into the rule. This leaves the Commission free to examine this issue over time and to evolve a definition through its decisions. The suggested steps (as examples only) were incorporated into section (c) of rule 3102, the rule which sets out the content of applications for facilities.

39. The same commenter suggested a change to rule 3206(b) which would have had the Commission decide, as appropriate and as part of its determination whether or not a certificate of public convenience and necessity is required for a particular facilities project, the reasonableness of noise and electromagnetic field levels. Because there would be no information or time available during the rule 3206 process for the Commission to make that decision and because that is a consideration to be addressed in an application for a certificate of public convenience and necessity (assuming one is necessary), this proposal was not adopted.

40. The recommendation of a commenting utility that rule 3208(b) be limited to wood poles was accepted. The rule was changed.

E. Major Events Reporting (rules 3250 to 5253)

41. These rules require reporting of major outages, a requirement not in the current rules. Commenting utilities made the same types of comments with respect to these rules as they made with respect to rule 3204 (incident reports). For the same reasons as those stated above, the utility recommendations were not adopted. In addition, given that these rules apply only to major events, it is imperative that the Commission be informed as quickly and as fully as possible, hence the 15 calendar day filing requirement found in rule 3252(a). If, with respect to a particular major event, a utility cannot meet the 15 calendar day filing deadline, the utility can seek an extension of the deadline through the processes established in the Rules Regulating Practice and Procedure.

F. Meters (rules 3300 to 3309)

42. Sections 3003(k) and (l) were added and section 3004(a) was changed in response to utility comments that the rules should provide for the use of a third-party testing facility to conduct required testing. The added and changed sections allow the use of third-party testing facilities so long as the stated conditions are met.

43. One utility commenter requested a standard of 16 years for scheduled meter testing across all types of service meters. Rule 3304(d). This rule was not changed because the testing intervals in the existing rule, which are carried forward in the new rule, are reasonable and because the utility did not provide evidence to support the suggested standard.

44. To state explicitly the requirement that a utility read its service meters monthly, rule 3309(c) was added. The rule provides that, for good cause, a utility may read its meters (or some meters) less frequently than monthly. However, a utility must read a service meter at least once every six months. Thus, this rule sets the parameters for service meter reading, a concept

not included in the proposed rules. As discussed below, this rule works in concert with rule 3402(a).

G. Billing and Service (rules 3400 to 3410)

45. All participants agreed that the billing and service rules for electric and steam utilities (the 3400 sub-series) and for gas utilities (the 4400 sub-series) ought to be identical. To the extent possible, taking into consideration any differences in statutory provisions and differences between the industries involved, the two sub-series are identical. This uniformity of treatment should reduce the overall regulatory burden on utilities which provide both electric/steam and gas services.

46. Certain sections contained in the existing Rules of Practice and Procedure (4 CCR 723-1) were moved into industry-specific rules in order to make the rules more complete and easier to use. The rules moved from practice and procedure rules into the electric and steam rules include refund applications, moved from Rule 4 CCR 723-1-58 to rule 3410.

47. The most significant and all-encompassing issue concerning the 3400 sub-series was the question of its applicability. As proposed, these rules would have applied to all classes of customers: residential, small commercial, large commercial, and industrial. All participants agreed that this was overly-inclusive. There was agreement that, with respect to industrial customers(which are typically large, are capable of negotiating for themselves with a utility, and have contracts or other instruments which contain the specifics of their interaction with the utility) and probably large commercial customers, the billing and service rules should not apply *en toto*. Due in large part to differences among the utilities with respect to what constitutes a "small" or a "large" commercial customer from an individual utility's perspective, the

participants did not offer a break-point for differentiation between "large" commercial customers and "small" commercial customers.

48. Rule 3400 limits the applicability of the 3400 sub-series "to residential customers and to commercial customers served by a utility's rates or tariffs."⁴ The rule gives a utility leeway to elect, in its tariffs, "to apply the same or different terms and conditions of service to other customer classes." Missing from this rule is a break-point between "small" commercial customers (such as, for example, a mom and pop grocery store), which are akin to residential customers so that the 3400 sub-series should apply, and "large" commercial customers (such as, for example, a shopping center), which are akin to industrial customers so that the sub-series should not apply. Given the absence of a clear break-point and the fact that the utilities are monopoly providers, the ALJ chose to be overly-inclusive so as to protect small commercial customers.

49. The Office of Consumer Counsel suggested adding line items and information to monthly bills. The information is too complicated for inclusion on a bill and can be obtained more effectively and understandably by direct contact with the billing utility. In addition, Public Service Company presented testimony that its ability to include additional information on its bills is near exhaustion; that it was not sure that it could include the additional items requested; and that (assuming it was able to do so) it could not include the additional information and line items without incurring significant expense. Given the lack of evidence that customers in Colorado want, need, would understand, or would use the additional information, and in view of

⁴ The only rule which is applicable solely to residential customers is rule 3407(e)(IV) (medical certification).

the extensive information already provided on bills and elsewhere, the recommendation to add information and line items to the monthly bills was not adopted.

50. Rules 3401(a)(VIII) and 3401(a)(IX), which require a utility to show unregulated charges and transferred balances on a customer's bill, were added. The current rules do not require a utility to show unregulated charges or transferred balances on a customer's bill. Having information about unregulated charges and transferred balances provided and clearly labeled on a monthly bill allows a customer to identify and, if necessary, to question those charges. In addition, rule 3401(b) contains directions on how partial payments are allocated; this is new.

51. Rule 3401(c) for the first time requires a utility to have a benefit of service tariff on file with the Commission if the utility wishes to have the ability to transfer to a customer a balance from the account of a person other than that customer. That tariff must contain, *inter alia*, an explanation of the verification process which the utility will use to establish, prior to billing under a benefit of service tariff, that the customer to be billed in fact received the benefit of the service for which the customer will be billed. This approach is a reasonable compromise between the positions of the participants, some of which wanted the utility to have written documentation to establish the existence of a benefit of service before transferring a balance and others of which wanted the utility to be able to transfer a balance with no investigation or documentation. Under the approach in rule 3401(c) the utility is responsible for making some effort to verify benefit of service, but the exact action and level of effort is left to be stated in an individual utility's tariff.

52. Rule 3401(e) allows a utility to offer electronic billing for customers who make a request for electronic billing. To offer electronic billing a utility must have a provision in its

tariffs and must meet stated requirements and restrictions. Proposed rule 3407(a), which would have permitted a utility to give notice of discontinuance of service by electronic notification to a customer on electronic billing, was deleted from the rules. Notification of discontinuance is too important to leave to the uncertainties inherent in electronic notification.

53. A utility is responsible for the accuracy of its service meters and for maintenance and servicing of those meters. In addition, a utility must take actual meter reading within the parameters of rule 3309(c). In view of these facts, rule 3402(a)(I) provides that a utility can recover for six months of under-billing due to a slow meter; rule 3402(a)(III) provides that a utility can recover for six months of under-billing due to a meter that does not register, registers intermittently, or registers partially; and rule 3402(a)(II) provides that a customer can recover for up to two years of over-billing due to a fast meter. This asymmetrical treatment affords the proper incentive to a utility to assure the accuracy of its service meters and to take meter readings as required. Because the asymmetrical treatment established in rule 3402(a) provides sufficient incentive, the suggestion that interest on over-billing be permitted (rule 3402(c)) was not adopted.⁵

54. Rule 3403 addresses applications for service, customer deposits, and third-party guarantee arrangements. Perhaps the most significant change from the proposed rules is the limitation placed on a third-party guarantor's liability or responsibility: it is restricted to an amount not to exceed the amount which would be required as a cash deposit (rule 3403(o)(IV)). This is a reasonable limitation and accurately reflects the purpose of a third-party guarantee: to

⁵ If the Commission determines that the time periods in rule 3402(a) should be the same (*i.e.*, six months, two years, or some other period under all circumstances), then (for the reasons discussed above) the Commission should require asymmetrical treatment with respect to interest. Rule 3402(c) should require interest on over-billings, and rule 3402(d) should not permit interest on under-billing.

serve as an alternative to a cash deposit. It is unreasonable for a utility to expect more from a third-party guarantee arrangement than it expects from a cash deposit. If a cash deposit based on a 90 days' (or 60 days') estimated bill is a sufficient basis upon which to provide service, then a third-party guarantee arrangement which gives the same protection is also a sufficient basis.

55. Sections (p), (q), (r), and (s) of rule 3403 address the payment of unclaimed monies, as defined in § 40-8.5-103(5), C.R.S., to the energy assistance organization. Section (r) of that rule was added to clarify the circumstances under which a utility may deduct from funds submitted to the energy assistance organization an amount paid to a customer. This change, suggested by a utility commenter, applies to the situation in which a utility pays out funds twice: once to the claiming customer and once to the energy assistance organization. Similar changes were made to rule 3410 (refunds).

56. Rule 3407 addresses discontinuance of service. Rule 3407(a) lists the circumstances under which a utility *can* discontinue service, and rules 3407(b) and 3407(e) list the circumstances under which a utility *cannot* discontinue service.

57. To deal with a diversion or energy theft situation, rule 3407(c) was added. This rule requires a utility which learns of diversion or theft to take specific action within a specific time period, thus limiting the harm to the utility's ratepayers. The current and the proposed rules have no such requirement, but the requirement is necessary to protect ratepayers.

H. Unregulated Goods and Services (rules 3500 to 3599)

58. These rules are reserved because they are the subject of another rulemaking proceeding, Docket No. 04R-003EG. When that proceeding is concluded, the final rules will be included in this sub-series.

59. It may be necessary to change the rules set out in Appendix A to make them consistent with the rules which are the product of Docket No. 04R-003EG. At this time, however, it is not practical to incorporate the substance of the cost assignment and cost allocation rules and to be sure that the entire 3000 series is internally consistent through all sub-series because rules may change upon Commission review of the rules. Accordingly, this is a function better performed as part of the Commission's final review of all the rules promulgated in the various rulemakings now underway.

I. Least-Cost Planning (rules 3600 to 3615)

60. The participants did not comment on these rules, largely because the Commission promulgated them so recently and no one had practical experience with them. As a result, there were no changes made to the substance of these rules. The format of some rules was changed to make it consistent with the format adopted for the 3000 series.

J. Appeals of Local Government Land Use Decisions (rules 3700 to 3707)

61. Changes to this sub-series, by and large, were made for formatting purposes and for clarity. Rule 3702 was added for clarity. This rule states the preconditions to filing an application to appeal a local government action.

K. Master Meters (rules 3800 to 3803)

62. These rules are reserved because they are the subject of another rulemaking proceeding, Docket No. 04R-170EG. When that proceeding is concluded, the final rules will be included in this sub-series.

63. It may be necessary to change the rules set out in Appendix A to make them consistent with the rules which are the product of Docket No. 04R-170EG.⁶ At this time, however, it is not possible to predict the substance of the master meter operator rules because they have not yet been promulgated. In addition, it is not practical to take steps to assure that the entire 3000 series is internally consistent through all sub-series because rules may change upon Commission review of the rules. Accordingly, this is a function better performed as part of the Commission's final review of all the rules promulgated in the various rulemakings now underway.

L. Small Power Producers and Cogenerators (rules 3900 to 3954)

64. Public Service Company made most of the comments pertaining to these rules, and the majority of those proposed changes were accepted and are reflected in the rules.

65. Utility commenters made recommendations concerning the process for determining avoided costs and the length of time for which a determination of a utility's avoided cost would be in effect. Because these suggestions are contrary to, or undercut the effectiveness of, the least-cost planning rules (the 3600 sub-series), they were not adopted.

66. One utility commenter suggested elimination of rule 3917. Because this rule sets standards related to a utility system's safety, capacity, and reliability and because the issues presented in eliminating this rule are tied directly to Amendment 37-related issues which are being addressed in Docket No. 05R-112E, it is premature to consider elimination of rule 3917. This is an issue which ought to be part of Docket No. 05R-112E. In addition, a utility which

⁶ For example, rule 3200(a)(XIX) refers to an application for an exemption of a master meter operator from rate regulation. If the master meter operator rules as promulgated do not provide for such an application, rule 3200(a)(XIX) will need to be changed.

seeks relief from the rule can file an application pursuant to rule 3917(c) or can seek a waiver or variance pursuant to the Rules Regulating Practice and Procedure.

67. A definition of "system emergency" was added to rule 3951(d). The definition is taken from the Federal Energy Regulatory Commission definition of system emergency found in 18 CFR § 292.101.

M. Glossary of Acronyms

68. To make the rules more user-friendly and easier to read, there is a glossary of acronyms.

N. General Findings

69. The rules attached to this Decision as Appendix A are reasonable and will provide guidance to and guidelines for jurisdictional public utilities and customers of those utilities.

70. The record of this proceeding demonstrates the need for the rules attached to this Decision as Appendix A.

71. The Commission has the necessary and proper authority to issue the rules attached to this Decision as Appendix A.

72. The rules attached to this Decision as Appendix A are clearly and simply stated so that their meaning can be understood by any person required to comply with them.

73. The rules attached to this Decision as Appendix A do not conflict with any other provision of law and do not duplicate or overlap other rules.

74. The rules attached to this Decision as Appendix A are consistent with the subject matter of this proceeding (*i.e.*, repeal and promulgation of rules regulating electric and steam utilities) as set out in the notice of proposed rulemaking (Decision No. C03-1370) which initiated this docket.

III. CONCLUSIONS

75. The existing rules pertaining to electric and steam utilities should be repealed.

76. The rules attached to this Decision as Appendix A meet the statutory requirements.

77. The rules attached to this Decision as Appendix A should be adopted in their entirety.

IV. ORDER

A. The Commission Orders That:

1. The Rules Regulating the Service of Electric Utilities, 4 *Code of Colorado Regulations* 723-3, are repealed in their entirety.

2. The Rules Regulating Applications Filed in Accordance with § 40-3-104.3, C.R.S., Concerning the Authority of the Public Utilities Commission to Flexibly Regulate Gas, Electric, or Steam Utilities, 4 *Code of Colorado Regulations* 723-10, are repealed in their entirety.

3. The Rules Implementing Sections 201 and 210, Public Utility Regulatory Policies Act, Small Power Production and Cogeneration Facilities, 4 *Code of Colorado Regulations* 723-19, are repealed in their entirety.

4. The Rules Concerning Appeals of Local Government Land Use Decisions Brought by a Power Utility or Power Authority to the Public Utilities Commission under § 29-20-108, C.R.S., 4 *Code of Colorado Regulations* 723-32, are repealed in their entirety.

5. The Rules Regulating Electric and Steam Utilities, 4 *Code of Colorado Regulations* 723-3, which are contained in Appendix A to this Order, are adopted.

6. The Request for Leave to File Late Reply Comments filed by Western Resource Advocates is denied as moot.

7. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

8. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

9. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(SEAL)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3

RULES REGULATING ELECTRIC UTILITIES AND STEAM UTILITIES

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BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to describe the electric and steam service to be provided by jurisdictional utilities and master meter operators to their customers; to designate the manner of regulation over such utilities and master meter operators; and to describe the services these utilities and master meter operators shall provide. In addition, these rules identify the specific provisions applicable to public utilities or other persons over which the Commission has limited jurisdiction. 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, 40-5-103, and 40-9.5-107(5), C.R.S.

GENERAL PROVISIONS

3000. Scope and Applicability.

- (a) Absent a specific statute, rule, or Commission Order which provides otherwise, all rules in this Part 3 (the 3000 series) shall apply to all jurisdictional electric utilities and electric master meter operators and to Commission proceedings concerning electric utilities or electric master meter operators providing electric service.
- (b) Absent a specific statute, rule, or Commission Order which provides otherwise, the following rules in this Part 3 shall apply to all utilities providing **steam service** and to Commission proceedings concerning utilities providing steam service:
 - (I) Rules 3002(a)(I), (a)(II), (a)(III), (a)(IV), (a)(V), (a)(VIII), (a)(X), (a)(XII), (a)(XIII), (a)(XV) (b), and (c) concerning the filing of applications for certificate of public convenience and necessity for franchise, service territories, or construction of facilities, certificate amendments, to merge or transfer, for flexible regulation, to amend steam tariffs on less than statutory notice, meter sampling and testing, and for approval of a refund plan.

- (II) Rule 3004 concerning disputes and informal complaints.
- (III) Rules 3005(a)(I)-(IX), except (a)(III), and (b) concerning steam tariffs filed with the Commission.
- (IV) Rules 3006(a), (b), (d), and (k) concerning the reporting to the Commission of total gross operating revenues received by a utility from its steam service and the filing of an annual report with the Commission on or before April 30 of each year regarding a utility's steam service.
- (V) Rules 3008 (a) and (c) concerning incorporation by reference.
- (VI) Rule 3100 concerning the contents of an application seeking approval by a utility to exercise steam franchise rights.
- (VII) Rule 3101 concerning the contents of an application seeking approval by a utility for service territory.
- (VIII) Rule 3102 concerning the contents of an application seeking approval to construct facilities.
- (IX) Rule 3103 concerning the contents of an application seeking certificate amendments.
- (X) Rule 3104 concerning the contents of an application to transfer steam assets, to obtain a controlling interest, or to merge with another entity.
- (XI) Rule 3107 concerning the contents of an application seeking flexible regulatory treatment and the procedures applicable to such an application.
- (XII) Rule 3109, except 3109(b)(I) and (b)(IX), concerning the requirement that a utility keep its current tariffs, contracts, privileges, contract forms, and service agreements on file with the Commission and available for public inspection at the utility's local office and principal place of business.
- (XIII) Rule 3110 concerning the procedure for filing new or changed steam tariffs.
- (XIV) Rule 3111 concerning the requirement that an advice letter be filed and the content of an advice letter.
- (XV) Rule 3200(a) concerning construction, installation, maintenance, and operation of steam plant.
- (XVI) Rule 3203, except (c), concerning interruption of service.
- (XVII) Rule 3204 concerning the reporting of incidents to the Commission.

- (XVIII) Rule 3207(a) and (b) concerning construction or expansion of distribution facilities.
- (XIX) Rule 3210(a) concerning line extensions.
- (XX) Rules 3300(a), (b), and (d) concerning service meters and related equipment.
- (XXI) Rule 3301 concerning meter location.
- (XXII) Rule 3302(e) concerning service meter accuracy.
- (XXIII) Rules 3303(a), (b), (c), (f), (i), (j), (k), and (l) concerning meter testing equipment and facilities.
- (XXIV) Rules 3304 (a), (b), and (d) concerning scheduled meter testing.
- (XXV) Rules 3305(a), (b)(III), (c), and (d) concerning meter testing upon request.
- (XXVI) Rule 3306 concerning records of tests and meters.
- (XXVII) Rule 3309 concerning meter reading.
- (XXVIII) Rule 3401 concerning billing information to be included on bills for steam service.
- (XXIX) Rule 3402 concerning adjustments for meter and billing errors.
- (XXX) Rule 3403 concerning applications for service, customer deposits, and third party guarantee arrangements.
- (XXXI) Rule 3404 concerning installment payments.
- (XXXII) Rule 3405 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.
- (XXXIII) Rules 3407(a), (b), (c), (d), (e)(I), (e)(II), and (e)(III) concerning discontinuance of steam service.
- (XXXIV) Rules 3408(a), (b)(I)-(XI), (c), (d), (e), (f), and (g) through (i), except (g)(II)(D), concerning notice of discontinuance of steam service.
- (XXXV) Rule 3409, except (b)(III), concerning the restoration of steam service.
- (XXXVI) Rule 3410 concerning the contents of an application for approval of a refund plan.

- (c) The following rules in this Part 3 shall apply to **cooperative electric associations which have elected to exempt themselves from the Public Utilities Law** pursuant to § 40-9.5-103 C.R.S.:
- (I) Rules 3002 (a)(I), (a)(II), (a)(IV), (a)(V), (a)(XVIII), (b), and (c) concerning the filing of applications for certificate of public convenience and necessity for franchise or service territory, for certificate amendments, to merge or transfer, or for appeals of local land use decisions.
 - (II) Rules 3005 (a)(III) (IV), (d), (e), (g), and (h) concerning records under RUS accounting system and preservation of records.
 - (III) Rule 3006 concerning the filing of annual reports, designation for service of process, and election of applicability of Title 40, Article 8.5.
 - (IV) Rules 3008 (b) and (d) concerning incorporation by reference.
 - (V) Rules 3100 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to a franchise.
 - (VI) Rules 3101 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to service territory.
 - (VII) Rule 3104 concerning application to transfer assets, to obtain a controlling interest, or to merge with another entity.
 - (VIII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.
 - (IX) Rule 3207, except (b), concerning construction and expansion of distribution facilities.
 - (X) Rules 3250 through 3253 concerning major event reporting.
 - (XI) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.
- (d) The following rules in this Part 3 shall apply to **cooperative electric generation and transmission associations**:
- (I) Rules 3002 (a)(III), (a)(XVIII), (b), and (c) concerning the filing of applications for certificates of public convenience and necessity for facilities or for appeals of local land use decisions.

- (II) Rules 3005 (d), (e), (g), and (h) concerning records under RUS accounting system and preservation of records.
- (III) Rules 3006 (a), (b), (e), and (g) concerning the filing of annual reports and for least-cost planning reports.
- (IV) Rules 3008 (b) and (d) concerning incorporation by reference.
- (V) Rule 3102 concerning applications for certificates of public convenience and necessity for facilities.
- (VI) Rule 3103 concerning amendments to certificates of public convenience and necessity for facilities.
- (VII) Rule 3104 concerning application to transfer, to obtain a controlling interest, or to merger with another entity.
- (VIII) Rule 3200 concerning construction, installation, maintenance, and operation of facilities.
- (IX) Rule 3204 concerning incidents occurring in connection with the operation of facilities.
- (X) Rule 3205 concerning construction or expansion of generating capacity.
- (XI) Rule 3206 concerning construction, upgrade, uprate, or expansion of transmission facilities.
- (XII) Rules 3250 through 3253 concerning major event reporting.
- (XIII) Rules 3602, 3605, and 3614(a) concerning least-cost resource planning.
- (XIV) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.

3001. Definitions.

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

- (a) "Affiliate" means companies that, directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the utility. For purposes of this definition, control (including the terms *controlling*, *controlled by*, and *under common control with*) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether such power is exercised through one or more intermediary companies, or alone,

or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stock-holders, voting trusts, holding trusts, affiliated companies, contract, or any other direct or indirect means.

- (b) "Applicant for service" means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (c) "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.
- (d) "Basis Point" means one-hundredth of a percentage point (100 basis points = 1%).
- (e) "Benefit of service" means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.
- (f) "Commission" means the Colorado Public Utilities Commission.
- (g) "Customer" means any person who is currently receiving service from a utility within the State of Colorado. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- (h) "Creep" means that, with all load wires disconnected, a meter's moving element makes one complete revolution in ten minutes or less.
- (i) "Distribution extension" is any construction of distribution facilities, including primary and secondary distribution lines, transformers, service laterals, and appurtenant facilities (except meters and meter installation facilities), necessary to supply service to one or more additional customers.
- (j) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs and are substations constructed under existing lines to transform electricity to a distribution voltage, regardless of voltage.
- (k) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.

- (l) "Heavy load" means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.
- (m) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure.
- (n) "Light load" means approximately five to ten percent of the nameplate-rated capacity of a meter.
- (o) "Load" means the power consumed by a electric utility customer over time (energy).
- (p) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (q) "Main service terminal" means the point at which the utility's metering connections terminate. Main service terminals are accessed by removing the meter dial face from the meter housing.
- (r) "MVA" means mega-volt amperes and is the vector sum of the real power and the reactive power.
- (s) "Output" means the energy and power produced by a generation system.
- (t) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.
- (u) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.
- (v) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (w) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission and contained in a tariff of the utility.
- (x) "Rotating standard" means a portable meter used for testing service meters.
- (y) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- (z) "Security" includes any stock, bond, note, or other evidence of indebtedness.

- (aa) "Service connection" is the location on the customer's premises/facilities at which a point of delivery of power between the utility and the customer is established. For example, in the case of a typical residential customer served from overhead secondary supply, this is the location at which the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.
- (bb) "Staff" means Staff of the Public Utilities Commission.
- (cc) "Transmission extension" is any construction of transmission facilities and appurtenant facilities, including meter installation facilities (except meters), which is connected to and enlarges the utility's transmission system and which is necessary to supply transmission service to one or more additional customers.
- (dd) "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, as defined in the utility's tariffs, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers.
- (ee) "Unregulated charges" means charges that are billed by a utility to a customer and that are not regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.
- (ff) "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.
- (gg) "Utility service" or "service" means a service offering of a public utility, which service offering is regulated by the Commission.

3002. Applications.

- (a) By filing an appropriate application, any utility may ask that the Commission take action regarding any of the following matters:
 - (I) For the issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 3100.
 - (II) For the issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 3101.

- (III) For the issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 3102.
- (IV) For the amendment of a certificate of public convenience and necessity in order to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 3103.
- (V) To transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets within the jurisdiction of the Commission or stock, or to merge a utility with another entity, as provided in rule 3104.
- (VI) For approval of the issuance, renewal, extension, or assumption of any security, as provided in rule 3105.
- (VII) For approval of a lien, as provided in rule 3106.
- (VIII) For flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 3107.
- (IX) For approval of an air quality improvement program, as provided for in rule 3108.
- (X) To amend a tariff on less than statutory notice, as provided in rule 3110.
- (XI) For variance of voltage standards, as provided in rule 3202.
- (XII) For approval of meter and equipment testing practices, as provided in rule 3303.
- (XIII) For approval of a meter sampling program, as provided in rule 3304.
- (XIV) For approval of component and source disclosure information, as provided in rule 3406.
- (XV) For approval of a refund plan, as provided in rule 3410.
- (XVI) For approval of a cost assignment and allocation manual, as provided in rule 3503.
- (XVII) For approval of or for amendment to a least-cost resource plan, as provided in rules 3603, 3613, and 3615.
- (XVIII) For appeal of local government land use decision, as provided in rule 3703.
- (XIX) For exemption of a master meter operator from rate regulation, as provided in rule 3802.

- (XX) For any other matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.
- (b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The name and address of the applying utility.
 - (II) The name(s) under which the applying utility is, or will be, providing service in Colorado.
 - (III) The name, address, telephone number, facsimile number, and e-mail address of the applying utility's representative to whom all inquiries concerning the application should be made.
 - (IV) A statement that the applying utility agrees to answer all questions propounded by the Commission or its Staff concerning the application.
 - (V) A statement that the applying utility shall permit the Commission or any member of its Staff to inspect the applying utility's books and records as part of the investigation into the application.
 - (VI) A statement that the applying utility understands that, if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted pursuant to the application may be revoked upon Commission order.
 - (VII) In lieu of the separate statements required by subsections (b)(IV) through (VI) of this rule, a utility may include a statement that it has read, and agrees to abide by, the provisions of subsections (b)(IV) through (VI) of this rule.
 - (VIII) A statement describing the applying utility's existing operations and general service area in Colorado.
 - (IX) For applications listed in subsections (a)(I), (II), (III), (V), (VI), and (VII) of this rule, a copy of the applying utility's most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows.
 - (X) A statement indicating the town or city, and any alternative town or city, in which the applying utility prefers any hearings be held.

- (XI) Acknowledgment that, by signing the application, the applying utility understands that:
 - (A) The filing of the application does not by itself constitute approval of the application.
 - (B) If the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and any conditions established by Commission order granting the application.
 - (C) If a hearing is held, the applying utility must present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action.
 - (D) In lieu of the statements contained in subsections (b)(XI)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subsections (b)(XI)(A) through (C) of this rule.
- (XII) A statement which is made under penalty of perjury; which is signed by an officer, a partner, an owner, or an employee of the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant.
- (c) In addition to the requirements of specific rules, all applications either shall include the following items or shall incorporate the following items by referring to information on file with the Commission. Applying utilities choosing to keep an item on file with the Commission shall keep the most current version on file and shall state in the application when the item was last filed with the Commission. Applying utilities choosing to include an item with the application shall include it in the following order and specifically identified either in the application or in appropriately identified attached exhibits:
 - (I) A copy of the applying utility's applicable organizational documents (e.g., Articles of Incorporation, Partnership Agreement, Articles of Organization).
 - (II) If the applying utility is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applying utility to transact business in Colorado.
 - (III) The name, business address, and title of each officer, director, and partner.

- (IV) The names and addresses of affiliated companies.
- (V) The name and address of the applying utility's Colorado agent for service of process.

3003. [Reserved].

3004. Disputes and Informal Complaints.

- (a) For purposes of this rule, "dispute" means a concern, difficulty, or problem which needs resolution and which a customer or a person applying for service brings directly to the attention of the utility without the involvement of Staff or the Commission.
- (b) A dispute may be initiated orally or in writing. Using the procedures found in rule 1301, a utility shall conduct a full and prompt investigation of all disputes concerning utility service.
- (c) In accordance with the procedures in rule 1301, each utility shall conduct a full and prompt investigation of all informal complaints concerning utility service.
- (d) A utility shall comply with all rules regarding the timelines for responding to informal complaints.
- (e) If a customer or a person applying for service is dissatisfied with the utility's proposed adjustment or disposition of a dispute, the utility shall inform the customer or person applying for service of the right to make an informal complaint to the External Affairs section of the Commission and shall provide to the customer or the person applying for service the address and toll free number of the Commission.
- (f) Each utility shall keep a record of each informal complaint and of each dispute. The record shall show the name and address of the initiating customer or person applying for service, the date and character of the issue, and the adjustment or disposition made. This record shall be open at all times to inspection by the person who initiated the informal complaint or dispute, by the Commission, and by Staff.

3005. Records.

- (a) Except as a specific rule may require, every utility shall maintain, for a period of not less than three years, and shall make available for inspection at its principal place of business during regular business hours, the following:
 - (I) Records concerning disputes and informal complaints, which records are created pursuant to rule 3004.
 - (II) Records of daily load and monthly plant output, which records are created pursuant to rule 3201.

- (III) Records of service voltage measurements, which records are created pursuant to rule 3202(a).
 - (IV) Records concerning interruptions of service, which records are created pursuant to rule 3203.
 - (V) Records concerning certification and calibration of meter testing equipment, which records are created pursuant to rule 3303.
 - (VI) Records concerning meter testing upon customer request, which records are created pursuant to rule 3305.
 - (VII) Records concerning meters and their associated testing, which records are created pursuant to rule 3306.
 - (VIII) Customer billing records, which records are created pursuant to rule 3401(a).
 - (IX) Customer deposit records, which records are created pursuant to rule 3403.
 - (X) Records and supporting documentation concerning its cost assignment and allocation manual and fully-distributed cost study pursuant to rules 3503(g) and 3504(e), for so long as the manual and study are in effect or are the subject of a complaint or a proceeding before the Commission.
 - (XI) Records concerning the utility's inspection of Qualifying Facilities, which records are created pursuant to rules 3927(c) and (e).
- (b) A utility shall maintain at each of its local offices and at its principal place of business all tariffs filed with the Commission and applying to Colorado rate areas. If the utility maintains a website, it shall also maintain its current and complete tariffs on its website.
 - (c) Each utility shall maintain its books of account and records in accordance with the provisions of 18 C.F.R. Part 101, the Uniform System of Accounts, amended as of April 1, 2004. A utility shall maintain its books of accounts and records separately from those of its affiliates.
 - (d) Each cooperative electric association which is a RUS borrower shall maintain its books of account and records in accordance with the provisions of 7 C.F.R. Part 1767, effective as of January 1, 2005.
 - (e) Each non-RUS borrower cooperative electric association shall maintain its books of account and records either consistent with the provisions of 18 C.F.R. Part 125, effective as of April 1, 2004, or consistent with the provisions of 7 C.F.R. Part 1767, effective as of January 1, 2005.

- (f) Each utility shall preserve its records in accordance with the provisions of 18 C.F.R. Part 125, the Preservation of Records of Public Utilities and Licensees, amended as of April 1, 2004.
- (g) Each cooperative electric association that is a RUS borrower shall preserve its records in accordance with the provisions of Rural Utilities Service Bulletin 180-2, effective June 26, 2003.
- (h) Each non-RUS borrower cooperative electric association shall preserve records consistent with the provisions of 18 C.F.R. Part 101, effective as of April 1, 2004.

3006. Reports.

- (a) On or before April 30th of each year, each utility shall file with the Commission an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed 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 nevertheless shall 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.
- (b) If a utility publishes an annual report or an annual statistical report to stockholders, other security holders or members, or if it receives an annual certified public accountant's report of its business, the utility shall file one copy of the report with the Commission within 30 days after publication or receipt of such report.
- (c) A cooperative electric association shall file with the Commission a report of election to be governed by § 40-8.5-102, C.R.S., pertaining to unclaimed monies. This report shall be filed within 60 days of the election.
- (d) Pursuant to rule 3204, a utility shall file with the Commission a report concerning any incident which results in death, serious injury, or significant property damage.
- (e) Pursuant to rules 3252 and 3253, a utility shall file with the Commission a report concerning any major event.
- (f) Pursuant to rules 3503(a), 3504(a), and 3503(i), a utility shall file with the Commission cost assignment and allocation manuals, fully-distributed cost studies, and required updates.
- (g) Pursuant to rule 3614(a), a utility shall file with the Commission an annual progress report concerning the utility's least-cost resource plan.

- (h) Pursuant to rule 3614(b), a utility shall file with the Commission reports on competitive acquisition bidding of the utility's least-cost resource plan.
- (i) Pursuant to rule 3954, a utility shall file with the Commission quarterly reports on Qualifying Facilities.
- (j) A utility shall file with the Commission any report required by a rule in this 3000 series of rules.
- (k) A utility shall file with the Commission such special reports as the Commission may require.

3007. [Reserved].

3008. Incorporation by Reference.

- (a) The Commission incorporates by reference 18 C.F.R. Part 101 (as published on April 1, 2004) 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.
- (b) The Commission incorporates by reference 7 C.F.R. Part 1767 (as published on January 1, 2005) regarding the Uniform System of Accounts Prescribed for RUS Electric Borrowers. No later amendments to or editions of 7 C.F.R. Part 1767 are incorporated into these rules.
- (c) The Commission incorporates by reference 18 C.F.R. Part 125 (as published on April 1, 2004) 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.
- (d) The Commission incorporates by reference RUS Bulletin 180-2 (as published on June 26, 2003) regarding Record Retention Recommendations for RUS Electric Borrowers. No later amendments to or editions of RUS Bulletin 180-2 are incorporated into these rules.
- (e) The Commission incorporates by reference the National Electrical Safety Code, C2-2002 edition, published by the Institute of Electrical and Electronics Engineers 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.
- (f) The Commission incorporates by reference 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C (as published on April 1, 2004) regarding §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978. No later amendments to or editions of 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C are incorporated into these rules.

(g) Any material incorporated by reference in this Part 3 may be examined at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards may be examined at any state public depository library.

3009. - 3099 [Reserved].

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OPERATING AUTHORITY

3100. Certificate of Public Convenience and Necessity for a Franchise.

- (a) A utility seeking authority to provide service pursuant to a franchise shall file an application pursuant to this rule. A utility cannot provide service pursuant to a franchise without authority from the Commission.
- (b) An application for certificate of public convenience and necessity to exercise franchise rights shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required in rules 3002(b) and 3002(c).
 - (II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application.
 - (III) A statement describing the 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 city or town in which franchise rights would be exercised.

- (IV) A certified copy of the franchise ordinance; proof of publication, adoption, and acceptance by the applying utility; 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.
- (V) A statement describing in detail the extent to which the applying utility is an affiliate of any other utility which holds authority duplicating in any respect the authority sought.
- (VI) A copy of a feasibility study for areas previously not served by the applying utility, which study shall at least include estimated investment, income, and expense. An applying utility may request that its most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.
- (VII) A statement of the names of public utilities and other entities of like character providing similar service in or near the area sought to be served.

3101. Certificate of Public Convenience and Necessity for Service Territory.

- (a) A utility seeking authority to provide service in a new service territory shall file an application pursuant to this rule. The utility cannot provide service within the proposed service territory without authority from the Commission.
- (b) An application for certificate of public convenience and necessity to provide service in a new territory shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required in rules 3002(b) and 3002(c).
 - (II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application.
 - (III) A description of the type of utility service to be rendered and a description of the area sought to be served.
 - (IV) A map showing the specific geographic area that the applying utility proposes to serve. If the applying utility intends to phase in service in the territory over

time, specific areas and proposed in-service dates shall be included. The map shall describe the geographic areas in section, township, and range convention.

- (V) A statement describing in detail the extent to which the applying utility is an affiliate of any other utility which holds authority duplicating in any respect the territory sought.
- (VI) 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.
- (VII) A copy of a feasibility study for the proposed area to be served, which shall at least include estimated investment, income, and expense. An applying utility may request that its most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.

3102. Certificate of Public Convenience and Necessity for Facilities.

- (a) A utility seeking authority to construct and to operate a facility or an extension of a facility pursuant to § 40-5-101, C.R.S., shall file an application pursuant to this rule. The utility cannot recover for construction and operation of a facility or an extension of a facility without authority from the Commission.
- (b) An application for certificate of public convenience and necessity to construct and to operate facilities or an extension of a facility pursuant to § 40-5-101, C.R.S., shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required in rules 3002(b) and 3002(c).
 - (II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application or citation to any Commission decision that is relevant to the proposed facilities.
 - (III) A description of the proposed facilities to be constructed.
 - (IV) Estimated cost of the proposed facilities to be constructed.
 - (V) Anticipated construction start date, construction period, and in-service date.

- (VI) A map showing the general area or actual locations where facilities will be constructed, population centers, major highways, and county and state boundaries.
 - (VII) As applicable, electric one-line diagrams.
 - (VIII) As applicable, information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives.
 - (IX) As applicable, a report of prudent avoidance measures considered and justification for the measures selected to be implemented.
 - (X) For transmission construction, upgrade, uprate, or extension, the information required by section (c) of this rule.
- (c) For an application for a certificate of public convenience and necessity for construction, upgrade, uprate, or extension of transmission facilities, the applying utility shall describe its actions and techniques relating to cost-effective noise mitigation with respect to the planning, siting, construction, and operation of the proposed transmission construction, upgrade, uprate, or expansion. The applying utility shall provide computer studies which show the potential noise levels expressed in db(A) and measured at the edge of the transmission line right-of-way. These computer studies shall be the output of utility standard programs (such as EPRI's EMF Workstation 2.51 ENVIRO Program), with a preference for the Bonneville Power Administration model. The steps and techniques may include, without limitation, the following:
- (I) Bundled conductors.
 - (II) Larger conductors.
 - (III) Design alternatives considering the spatial arrangement of phasing of conductors.
 - (IV) Corona-free attachment hardware.
 - (V) Conductor quality.
 - (VI) Handling and packaging of conductor.
 - (VII) Construction techniques.
 - (VIII) Line tension.

3103. Certificate Amendments for Changes in Service, in Service Territory, or in Facilities.

- (a) A utility seeking authority to do the following shall file an application pursuant to this rule: amend a certificate of public convenience and necessity in order to extend, to restrict, to curtail, or to abandon or to discontinue without equivalent replacement any service, service area, or facility. A utility cannot extend, restrict, curtail, or abandon or discontinue without equivalent replacement any service, service area, or facility without authority from the Commission.
- (b) An application to amend a certificate of public convenience and necessity in order to change, to extend, to restrict, to curtail, to abandon, or to discontinue any service, service area, or facility without equivalent replacement shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and 3002(c).
 - (II) If the application for amendment pertains to a certificate of public convenience and necessity for facilities, all of the information required in rule 3102.
 - (III) If the application for amendment pertains to a certificate of public convenience and necessity for franchise rights, all of the information required in rule 3100.
 - (IV) If the application for amendment pertains to a certificate of public convenience and necessity for service territory, all of the information required in rule 3101.
 - (V) If the application for amendment pertains to a service, the application shall include:
 - (A) The requested effective date for the extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement of the service.
 - (B) A description of the extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement sought. This shall include maps, as applicable. This shall also include a description of the applying utility's existing operations and general service area.
- (c) In addition to complying with the notice requirements of the Commission's Rules Regulating Practice and Procedure, the applying utility shall prepare a written notice as provided in section (d) of this rule and shall mail or deliver the notice at least 30 days before the application's requested effective date

to each of the applying utility's affected customers. If no customers will 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.

- (d) The notice required by section (c) of the rule shall contain all of the following:
 - (I) The name of the applying utility.
 - (II) A statement detailing the requested extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement and the requested effective date.
 - (III) A statement 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.
 - (IV) A statement that, in order to participate as a party, a person must file an appropriate and timely intervention according to the Commission's Rules Regulating Practice and Procedure.
 - (V) The Commission's full address.
- (e) Not later than 15 days before the requested effective date, the applying utility shall file with the Commission a written affidavit stating its compliance with the notice requirements of sections (c) and (d) of this rule. The affidavit shall state the date the notice was completed and the method used to give notice. The applying utility shall attach a copy of the notice to the affidavit.
- (f) No proposed extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement shall be effective unless and until the Commission has entered an order approving it.

3104. Transfers, Controlling Interest, and Mergers.

- (a) A utility seeking authority to do any of the following shall file an application pursuant to this rule: transfer a certificate of public convenience and necessity, obtain a controlling interest in a utility, transfer assets subject to the jurisdiction of the Commission, transfer stock, or merge a utility with another entity. A utility cannot transfer a certificate of public convenience and necessity, obtain a controlling interest in any utility, transfer assets or stock, or merge with another entity without authority from the Commission.

- (b) An application to transfer a certificate of public convenience and necessity, to obtain a controlling interest in a utility, to transfer assets subject to the jurisdiction of the Commission, to transfer stock, or to merge a utility with another entity shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The information required in rules 3002(b) and 3002(c), 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 transaction which is the subject of the application.
 - (III) Copies of any agreement for merger, sales agreement, or contract of sale pertinent to the transaction which is the subject of the application.
 - (IV) Facts showing that the transaction which is the subject of the application is not contrary to the public interest.
 - (V) An evaluation of the benefits and detriments to the customers of each party and to all other persons who will be affected by the transaction which is the subject of the application.
 - (VI) A comparison of the kinds and costs of service rendered before and after the transaction which is the subject of the application.
- (c) An application to transfer a certificate of public convenience and necessity, an application to transfer assets subject to the jurisdiction of the Commission, or an application to transfer stock may be made by joint or separate application of the transferor and the transferee.
- (d) When control of a utility is transferred to another entity, or the utility's name is changed, the utility which will afterwards operate under the certificate of public convenience and necessity shall file with the Commission a tariff adoption notice, shall post the tariff adoption notice in a prominent public place in each local office and principal place of business of the utility, and shall have the tariff adoption notice available for public inspection at each local office and principal place of business. Adoption notice forms are available from the Commission. The tariff 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) Unless otherwise requested by the applying utility in its application, a statement that the adopting utility is adopting as its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.

3105. Securities.

- (a) Subject to the limitation contained in section (f) of this rule, a utility which either derives more than five percent of its consolidated gross revenues in Colorado as a public utility or derives a lesser percentage if its revenues are earned by supplying an amount of energy which equals five percent or more of Colorado's consumption shall file an application for Commission approval of any proposal to issue, to renew, to extend, or to assume any security.
- (b) An application for the issuance, renewal, extension, or assumption of securities shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and 3002(c).
 - (II) A copy of the resolution of the applying utility's board of directors approving the issuance, renewal, extension, or assumption 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.
 - (III) A statement describing each short-term and long-term indebtedness outstanding on the date of the most recent balance sheet.
 - (IV) 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 most recent balance sheet.
 - (V) A statement of capital structure showing common equity, long-term debt, preferred stock, if any, and pro forma capital structure on the date of the most recent 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.

- (VI) 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 most recent balance sheet.
 - (VII) A statement describing the type and amount of securities to be issued; the anticipated interest rate or dividend rate; the redemption or sinking fund provisions, if any; and, within three business day of their filing with the Securities and Exchange Commission, a copy of the registration statement, related forms, and preliminary prospectus filed with the Securities and Exchange Commission relating to the proposed issuance.
 - (VIII) 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.
 - (IX) A statement of the estimated cost of financing.
- (c) The Commission shall publish notice of the application, which shall set a ten-day intervention period and a hearing date.
 - (d) Within three days after the filing of an application to issue, to renew, to extend, or to assume a security, the applying utility shall publish notice of the filing of the application in a newspaper of general circulation. The notice shall contain the following information:
 - (I) The name and address of the applying 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.
 - (III) A statement that any person may intervene in the application proceeding by complying with the applicable rule of the Commission's Rules Regulating Practice and Procedure.
 - (e) The applying 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.
 - (f) The Commission shall give priority to an application made pursuant to this rule and shall grant or deny the application 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. The Commission shall approve or disapprove an application made pursuant to this rule by written order.

- (g) Pursuant to § 40-1-104, C.R.S., a utility may issue, renew, extend, or assume liability on securities, other than stocks, with a maturity date of not more than 12 months after the date of issuance, whether secured or unsecured, without application to or order of the Commission provided that no such securities so issued shall be refunded, in whole or in part, by any issue of securities having a maturity of more than 12 months except on application to and approval of the Commission.
- (h) Any security requiring Commission approval, but issued, renewed, extended, or assumed without such approval, shall be void.

3106. Liens.

- (a) A utility which either derives more than five percent of its consolidated gross revenues in Colorado as a public utility or derives a lesser percentage if its revenues are earned by supplying an amount of energy which equals five percent or more of Colorado's consumption shall file an application for Commission approval of any proposal to create a lien on its property situated within the State of Colorado.
- (b) An application for the creation of a lien on the applying utility's property situated within the State of Colorado shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and 3002(c).
 - (II) A description of the property which will be subject to the lien.
 - (III) The amount of the lien.
 - (IV) The proposed use of the funds to be received from the lien.
 - (V) The estimated cost for the creation of the lien.
 - (VI) The anticipated duration of the lien.
 - (VII) The anticipated release date of the lien.
 - (VIII) The retirement payment plan to release the lien.
 - (IX) A statement describing how the applying utility will ensure that neither the creation of the lien nor the use of the proceeds will violate § 40-3-114, C.R.S.

- (X) A statement that, for the duration of the lien, the applying utility will advise the Commission within ten business days of any bankruptcy, foreclosure, or liquidation proceeding.
 - (XI) A statement that the applying utility will advise the Commission within ten business days of any deviation from its lien retirement payment plan.
 - (XII) A statement that, within seven business days of the end of each month, the applying utility will record on its books and records any transaction relating to the lien.
 - (XIII) A statement that the applying utility agrees to provide to the Commission quarterly cash flow statements during the duration of the lien.
 - (XIV) A description of how the applying utility will maintain adequate quality of service for its regulated utility operations during the duration of the lien.
 - (XV) A copy of the resolution of the applying utility's board of directors approving the creation of the lien or a copy of other authorizing document(s).
 - (XVI) A statement describing each short-term and long-term indebtedness outstanding on the date of the most recent balance sheet.
 - (XVII) 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 most recent balance sheet.
 - (XVIII) A statement of capital structure showing common equity, long-term debt, preferred stock, if any, and pro forma capital structure on the date of the most recent balance sheet giving effect to the creation of the proposed lien. Debt and equity percentages to total capitalization, actual and pro forma, shall be shown.
 - (XIX) 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 most recent balance sheet.
- (c) The Commission shall publish notice of the application, which shall set a ten-day intervention period and a hearing date.
 - (d) Within three days after the filing of an application to create a lien on property in Colorado, the applying utility shall publish notice of the filing of the application in a newspaper of general circulation. The notice shall contain the following information:

- (I) The name and address of the applying 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.
 - (III) A statement that any person may intervene in the application proceeding by complying with the applicable rule of the Commission's Rules Regulating Practice and Procedure.
- (e) The applying 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.
- (f) The Commission shall give priority to an application made pursuant to this rule and shall grant or deny the application 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. The Commission shall approve or disapprove an application made pursuant to this rule by written order.

3107. Flexible Regulation to Provide Jurisdictional Service Without Reference to Tariffs.

- (a) A utility seeking authority to provide a jurisdictional service without reference to a tariff shall file an application pursuant to this rule. A utility cannot provide a jurisdictional service without reference to a tariff without authority from the Commission.
- (b) An application for flexible regulation to provide jurisdictional service without reference to tariffs shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and 3002(c).
 - (II) The name of the customer or potential customer.
 - (III) A description of the jurisdictional service or services which the applying utility seeks to provide to a customer or a potential customer.
 - (IV) A statement describing the manner in which the applying utility will provide the jurisdictional service or services if it contracts with a customer or potential customer.

- (V) A statement of the facts (not in conclusory form) which the applying utility believes satisfy the requirements of § 40-3-104.3(1)(a), C.R.S.
 - (VI) A statement that the applying utility has provided, or will provide, copies of the application and contract as required by section (c) of this rule.
- (c) The contract which is the subject of the 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 applying utility shall furnish a copy of the application and, when it is available, of the contract, under seal, to the OCC. Unless the applying utility requests other treatment, the Commission and the OCC shall treat the contract as confidential. The applying utility shall also furnish a copy of the application without the contract to any utility then providing service to the customer or potential customer.
 - (d) The direct testimony and exhibits to be offered at hearing shall accompany the application unless the applying utility believes that the application will be uncontested and unopposed. If an exhibit is large or cumbersome, the applying utility shall file the exhibit with the Commission; shall provide, for the benefit of the intervenors, the title of the exhibit and a summary of the information contained in the exhibit; and shall state the location (other than the Commission) at which parties may inspect the exhibit.
 - (e) Prefiled testimony or exhibits shall not be modified once filed unless the modification is to correct typographical errors or misstatements of fact or unless all parties to the proceeding agree to the modification. In the event a substantive modification is made without the agreement of all parties, the Commission may consider the effect of the substantive modification as a basis for a motion to continue in order to allow the Staff or any other party a reasonable opportunity to investigate and, if necessary, to address the modification.
 - (f) The Commission shall provide notice of the application. Any person desiring to intervene in a proceeding initiated pursuant to § 40-3-104.3, C.R.S., and this rule shall move to do so within five days of the date the Commission provides notice.
 - (g) Within two business days of receiving written notice of an intervention in a proceeding initiated pursuant to § 40-3-104.3, C.R.S., and this rule, the applying utility shall hand-deliver or otherwise provide to the intervenor a non-confidential copy of the application and the applying utility's prefiled testimony and exhibits or, if the intervenor has signed the required non-disclosure agreement, a confidential copy of the application and of the applying utility's prefiled testimony and exhibits.

- (h) Unless the Commission orders otherwise, the applying utility shall publish notice of the application in a newspaper of general circulation within three days of the filing of the application.
- (i) The notice provided by the applying utility shall contain the following information:
 - (I) The name and address of the applying utility.
 - (II) A statement that the applying utility is seeking an order from the Commission authorizing the applying utility to provide jurisdictional service under contract without reference to its tariffs.
 - (III) The name of the customer(s) or potential customer(s) involved.
 - (IV) A statement that the identified customer(s) or potential customer(s) may have the ability to provide its/their own service or may have competitive alternatives available to it/them.
 - (V) A general description of the jurisdictional services to be provided.
 - (VI) A statement of where affected customers may call to obtain information concerning the application.
 - (VII) 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.
 - (VIII) A statement that anyone desiring to participate as a party must file a petition to intervene within five days from the date of Commission notice of the application and that the intervention must comport with the Commission's Rules Regulating Practice and Procedure.
- (j) Within three days of providing notice, the applying utility shall file with the Commission an affidavit showing proof of publication of notice.
- (k) On a case-by-case basis, the Commission may require the applying utility to provide additional information.
- (l) Should an application be filed which the Commission determines is not complete, the Commission or Staff shall notify the applying utility within ten days from the date the application is filed of the need for additional information. The applying utility may then supplement the application so that it is complete. Once the application is complete, the Commission will process the application, with all applicable timelines running from the date the application is completed.

- (m) 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.
- (n) At the time of any proceeding in which a utility's overall rate levels are determined, the Commission shall require the utility to file a fully distributed cost method which segregates investments, revenues, and expenses associated with jurisdictional utility service provided pursuant to contract from other regulated utility operations in order to ensure that jurisdictional utility service provided pursuant to contract is not subsidized by revenues from other regulated utility operations. If revenues from a service provided by a utility pursuant to contract are less than the cost of service for that service, the rates for other regulated utility operations shall not be increased to recover the difference.
- (o) The applying utility shall provide final contract or other description of the price and terms of service as specified in § 40-3-104.3(1)(e), C.R.S.

3108. Voluntary Air Quality Improvement Programs pursuant to § 40-3.2-102, C.R.S.

- (a) A utility seeking authority for cost recovery of a voluntary air quality improvement program shall file an application pursuant to this rule. The utility cannot recover the cost of a voluntary air quality improvement program without authority from the Commission.
- (b) An application for cost recovery of a voluntary air quality improvement program shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and 3002(c).
 - (II) A copy of the voluntary agreement entered into pursuant § 40-3.2-102(1), C.R.S.
 - (III) An analysis demonstrating that the proposed cost recovery mechanism complies with, and does not exceed, the rate impact cap, the total cost cap, and the recovery period limit established in § 40-3.2-102(3), C.R.S.
 - (IV) A written acknowledgment that any revenues the applying utility receives from transferring, selling, banking, or otherwise using allowances under title IV of the federal Clean Air Act shall be credited to the applying utility's customers to offset air quality improvement costs, as required by § 40-3.2-102(4), C.R.S.
 - (V) An acknowledgment that any revenues the applying utility receives from transferring, selling, banking, or otherwise

using allowances established under any trading program of regional or national applicability, other than the trading allowances under title IV of the federal Clear Air Act, shall be credited to the applying utility's customers to offset air quality improvement costs, as required by § 40-3.2-102(4), C.R.S.

(VI) A statement as to whether the applying utility's generating capacity will increase under the voluntary agreement for air quality improvement.

(VII) A statement as to whether, pursuant to § 40-3.2-102(7), C.R.S., the applying utility intends to seek recovery of a portion of the air quality improvement costs from its wholesale customers and, if it does so intend, whether the applying utility intends to credit its retail customers for air quality improvement costs recovered from wholesale customers.

3109. Tariffs and Contracts.

(a) A utility shall keep on file with the Commission the following: its current Colorado tariffs, contracts, privileges, contract forms, and electric service agreements. Unless otherwise provided by law, all tariffs, contracts, privileges, contract forms, and electric service agreements shall be available for public inspection at the Commission and at the principal place of business of the utility.

(b) Tariffs shall plainly show all terms, conditions, rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected and enforced, with respect to regulated services and products. A utility's tariffs shall include at least the following:

(I) Information regarding the utility's voltages, pursuant to rule 3202.

(II) Information regarding the utility's line extension policies, procedures, and conditions, pursuant to rule 3210.

(III) Information regarding the utility's meter testing equipment and facilities, scheduled meter testing, meter testing records, fees for meter testing upon request, and meter reading, pursuant to rules 3303, 3304, 3305, 3306, and 3309.

(IV) Information regarding the utility's benefit of service transfer policies, pursuant to rule 3401(c).

(V) Information regarding the utility's customer deposit policy, pursuant to rule 3403.

(VI) Information regarding the utility's installment payment plans and other plans, pursuant to rule 3404.

- (VII) Information regarding the utility's collection fees or miscellaneous service charges, pursuant to rules 3404(c)(VI) and (VIII).
- (VIII) Information regarding the utility's after-hour restoration fees, pursuant to rule 3409(b).
- (IX) Information regarding the utility's avoided costs, pursuant to rule 3902(b).
- (X) Rules, regulations, and policies covering the relations between the customer and the utility.

3110. New or Changed Tariffs.

- (a) A utility shall file with the Commission any new or changed tariffs. No new or changed tariff shall be effective unless it is filed with the Commission and either is allowed to go into effect by operation of law or is approved by the Commission.
- (b) A utility shall use one of the following processes to seek to add a new tariff or to change an existing tariff:
 - (I) The utility may file the proposed tariff, including the proposed effective date, accompanied by an advice letter. The utility shall provide notice in accordance with rule 1206. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the tariff's 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. The utility shall provide notice in accordance with rule 1206. The application shall include the information required in rules 3002(b) and 3002(c); shall explain the details of the proposed tariff, including financial data if applicable; shall state the facts which are the basis for the request that the proposed tariff become effective on less than 30-days' notice; and shall note any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.
 - (III) By advice letter to be effective on not less than one-day's notice, the utility may file a tariff to comply with an order of the Commission.
- (c) Each tariff sheet which is 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 (for example, "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 Commission decision, the tariff sheet shall show the specific authority or Commission decision number in the space provided at the foot of the sheet.

- (d) The Commission may reject any tariff that is not in the form, or does not contain the information, required by statute, by rule, or by Commission order and decision. Any tariff rejected by the Commission shall be void and shall not be used.

3111. Advice Letters.

Each proposed tariff shall be accompanied by a serially-numbered advice letter. The letter shall list all sheets included in the filing by number and shall show the sheets being cancelled, if any. The advice letter shall state the purpose of the filing; shall identify each change being proposed; shall state the amounts, if any, by which the utility's revenues will be affected; shall summarize clearly the extent to which customers will be affected; and shall provide information demonstrating that the proposed tariff is just and reasonable.

3112. - 3199 [Reserved].

3113. [Reserved]
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FACILITIES

3200. Construction, Installation, Maintenance, and Operation.

- (a) The plant, equipment, and facilities of a 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, 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.
- (c) Any utility plant 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 with the provisions of this rule.

3201. Production 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 production 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; Applications for Variance.

- (a) A utility must make every reasonable effort consistent with good engineering practices to maintain a constant frequency and constant voltage on its facilities at all times.
- (b) 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. Those service voltages shall be practically constant as follows:
 - (I) For service rendered under a lighting contract or primarily for lighting purposes, the voltage shall be maintained within five percent above or below the standard stated in the utility's tariff.
 - (II) For service rendered under a power contract or primarily for power purposes, the voltage shall be maintained within ten percent above or below the standard stated in the utility's tariff.
- (c) The following shall not be considered a violation of section (b) of this rule:
 - (I) A temporary variation in voltage in excess of those specified if caused by the operation of power apparatus on a customer's premises which necessarily require large starting currents, provided that only the customer's premises are affected. If other customers are affected, the utility shall work with the customer causing the variation to resolve the voltage fluctuation/violation problem or problems.

- (II) A temporary variation in voltage in excess of those specified if caused by the action of the elements.
 - (III) A temporary variation in voltage in excess of those specified if caused by infrequent, unavoidable, and short-duration fluctuations due to necessary station or line operations.
- (d) If a utility seeks to operate at a greater variation in voltages than permitted by section (b) of this rule, the utility shall file an application for a variance. An application for variance of voltage regulation may not be filed for communities, cities, or towns for which a transmission line was primarily built. An application for variance shall include:
- (I) All information required in rules 3002(b) and 3002(c).
 - (II) Delineation of the geographic boundaries of the service territory for which the variance is sought.
 - (III) A statement of the facts (not in conclusory form) which supports the need for the requested variance.
 - (IV) A demonstration that the applying utility proposes to provide the best voltage regulation practicable under the circumstances.
- (e) The Commission may allow a greater variation of voltage when:
- (I) Service is furnished directly from a transmission line.
 - (II) Service is furnished in a limited or extended area where customers are widely scattered and the business done within that area does not justify close voltage regulation (such as individual customers or small groups of customers whose service from a transmission line is incidental).
- (f) Each utility's tariff shall include a description of test methods, equipment, and frequency of testing used to determine the voltage of electric service furnished.
- (g) Each utility's tariff shall include a description of standard average voltage, or voltages, and frequency, or frequencies, as may be required by:
- (I) The utility's distribution system,
 - (II) The utility's entire system, or
 - (III) Each of the several districts into which the utility's system may be divided.

3203. Interruptions of Service.

- (a) Each utility shall keep a record of every service interruption (including, without limitation, forced outages caused by events outside of the utility's control, scheduled outages, or sustained outages) which occurs on its entire system or on a major division of its system. The record shall include at least a statement of the time, the duration, and the cause of any service interruption and the readings taken periodically from station meters. These station meter readings shall be taken at such interval as the utility or the Commission may from time to time require.
- (b) The records of service interruptions and a statement of the utility's operating schedules shall be open at all times to the inspection of the duly authorized representatives of the Commission. The utility shall retain these records for five years.
- (c) As used in this rule, "service interruption" means a loss of service consistent with IEEE Standard Number 1366, *Guide for Electric Power Distribution Reliability Indices*.

3204. Incidents.

- (a) In compliance with the policies adopted from time to time by the Commission to implement this rule and within two hours (120 minutes) of learning of the incident, each utility shall inform the Commission of an incident which occurs in connection with the operation of its property, facilities, or service and which results in death, serious injury, or significant property damage.
- (b) Within 30 calendar days of the incident, the utility shall submit a written report to the Director of the Commission. The report shall contain at least the following information:
 - (I) Date, time, place, and location of the incident.
 - (II) Type of incident.
 - (III) Names of all persons involved.
 - (IV) Nature and extent of injury and damage.
- (c) If the utility conducts an internal investigation of an incident referred to in section (a) above, the utility 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 either the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity or the

Commission issues a certificate of public convenience and necessity for the facility or project. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of generation facilities provided that such construction or expansion is contained entirely within the cooperative's certificated area.

- (b) The following shall be deemed to occur in the ordinary course of business and shall not require a certificate of public convenience and necessity:
 - (I) An expansion which will result in an increase in generating capacity of less than ten megawatts.
 - (II) A generating plant remodel, or installation of any equipment or building space, required for pollution control systems.
- (c) For each expansion that will result in an increase in generating capacity of ten megawatts or more, the electric utility shall submit to the Commission, no later than April 30 of each year, a filing for a determination of which of the utility's proposed new construction or expansions for the next three calendar years, commencing with the year following the filing, are necessary in the ordinary course of business and which require a certificate of public convenience and necessity prior to construction. For each project, the filing shall contain the following:
 - (I) The name, proposed location, and function or purpose of the project.
 - (II) The estimated cost of the project and the manner in which it is expected to be financed.
 - (III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation.
- (d) The Commission will give notice of each filing made pursuant to section (c) of this rule to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (e) The Staff shall review the filing and any comments received and shall make recommendations in accordance with the following schedule:
 - (I) For any new construction or expansion project which is scheduled to begin in the next calendar year and which will result in an increase in generating capacity of ten 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 which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten 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 following schedule:
 - (I) For any new construction or expansion project which is scheduled to begin in the calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more,, the decision designating each generation project that requires a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.
 - (II) For any new construction or expansion project which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more, the decision designating each generation project that requires 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) For purposes of this rule:
 - (I) "Upgrade" means to increase significantly the MVA rating of an existing transmission facility by modifying its physical characteristics. Upgrades include, for example and without limitation, the following:
 - (A) Replacement of the existing conductor of a transmission line with a larger one, with continued operation at the existing voltage.
 - (B) Modification of the transmission line to the extent that the line will be operated at a higher voltage.
 - (C) Replacement of transformers, breakers, or capacitor banks with larger transformers, breakers, or capacitor banks.
 - (II) "Uprate" means to achieve a higher MVA rating of an existing transmission facility with minor or no modifications to that facility. Uprates include, for example and without limitation, the following:

- (A) The raising and/or strategic placement of structures in order to raise the conductor, thereby increasing clearances, permitting more current flow, and increasing the MVA rating.
 - (B) The mere declaration of an uprated line after an engineering and physical inspection indicate that existing line clearances are sufficient to allow more current flow, thereby increasing the MVA rating.
- (b) No utility and no cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., may commence new construction, upgrades, uprates, or extension of transmission facilities or projects until either the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity or the Commission issues a certificate of public convenience and necessity. Rural electric cooperatives which have elected to exempt themselves from the Public Utilities Law pursuant to § 40-9.5-103, C.R.S., do not need a certificate of public convenience and necessity for new construction, upgrade, uprate, or extension of transmission facilities or projects when such construction or expansion is contained entirely within the cooperative's certificated area.
- (c) No later than April 30 of each year, each electric utility and each cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., shall submit to the Commission a filing for a determination of which of the utility's proposed new construction, upgrades, uprates, or expansion of transmission facilities within its certificated service territory for the next three calendar years, commencing with the year following the filing, are necessary in the ordinary course of business and which require a certificate of public convenience and necessity prior to construction. The filing shall contain a reference to all such proposed new construction, upgrades, uprates, or extensions, regardless of whether the utility or cooperative electric association has referenced such new construction, upgrades, uprates, or extensions on prior annual filings. For each project, the filing shall contain the following:
- (I) The name, proposed location, and function or purpose of the project, including:
 - (A) If the project is a substation or related facilities: the voltage level and the MVA rating.
 - (B) If the project is a transmission line: the voltage, the length in miles, the substation termination points, and the general proposed routing of the center line.

- (II) The estimated cost of the project and the manner in which it is expected to be financed.
 - (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.
 - (IV) For new construction, upgrades, uprates, or extensions that have been referenced in prior annual filings, an update of the status of, and any changes to, such new construction, upgrades, uprates, or extensions.
- (d) In addition to the information provided in section (c) of this rule, the filing shall describe the utility's actions and techniques relating to prudent avoidance with respect to planning, siting, construction, and operation of the proposed construction, upgrade, uprate, or extension. As used in this section, "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. The steps and techniques may include, without limitation, the following:
- (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.
 - (V) Burying lines.
- (e) The Commission will give notice of each filing made pursuant to this rule to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (f) The Staff shall review the filing and any comments received and shall make recommendations according to the following schedule:
- (I) For any new construction, upgrade, uprate, or extension which is scheduled 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, upgrade, uprate, or extension which is scheduled to begin in the second or third calendar year following the year in which the filing is made, the

staff shall make its recommendations by August 31 of the year in which the filing is made.

- (g) The Commission shall issue its decision on the Staff's recommendation in accordance with the following schedule:
 - (I) For any new construction, upgrade, uprate, or extension of transmission facilities or projects which is scheduled to begin in the calendar year following the year in which the filing is made, the decision designating each transmission facility that requires a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.
 - (II) For any new construction, upgrade, uprate, or extension of transmission facilities which is scheduled to begin in the second or third calendar year following the year in which the filing is made, the decision designating each transmission facility that requires a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.
- (h) The utility shall install and maintain service connections from transmission extensions consistent with conditions contained 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 contained in the utility's tariff.
- (c) When a customer or potential customer requests a cost estimate of a distribution line extension, the utility shall provide a photovoltaic system cost comparison, if the following conditions are met:
 - (I) The customer or potential customer provides the utility with load data (estimated monthly kilowatt-hour usage) as requested by the utility to conduct the comparison.
 - (II) The customer or potential customer's peak demand is estimated to be less than 25 kw.
- (d) In performing a photovoltaic system cost 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 within the life of the open extension period.

- (e) If the customer or potential customer has a ratio of estimated monthly kilowatt-hour usage divided by line extension mileage that is less than or equal to 1,000 (*i.e.*, Kwh/Mileage is $\leq 1,000$), the utility shall provide the photovoltaic system cost comparison at no cost to the customer or potential customer. If the ratio is greater than 1,000, the customer or potential customer shall bear the cost of the comparison, if the cost comparison is requested by the customer or potential customer.

3208. Poles.

- (a) In the case of two or more utilities jointly owning or using a pole or pole line structure, each of the utilities shall mark each pole or structure with the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark so that the ownership of such structure may be readily and definitely determined.
- (b) A utility shall mark each wood 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 the structure was installed.
- (c) In accordance with prudent utility practices, a utility shall inspect, and shall timely repair or replace, each of the following which it owns or uses: poles, posts, towers, or other structures used for the support or attachment of electrical conductors, guys, or lamps.
- (d) The requirements of this rule 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 overhead or underground equipment shall be installed and maintained consistent with the conditions stated in the utility's tariff. In special cases involving either overhead or underground service connections and as necessary, the Commission will prescribe the proper charge.

3210. Line Extension.

- (a) Each utility shall have tariffs which set out its line extension policies, procedures, and conditions.
- (b) Specific tariff provisions for making overhead or underground service connections, for transmission line extensions, and for distribution line extensions shall include:
 - (I) Service connections and distribution line extensions by customer class and the appropriate terms and conditions under which those connections and extensions will be made.

- (II) Provisions requiring the utility to provide to a customer or to a potential customer, upon request, service connection information necessary to allow the customer's or potential customer's facilities to be connected to the utility's system.
 - (III) Provisions requiring the utility to exercise due diligence in providing the customer or potential customer with an estimate of the anticipated cost of a connection or extension.
 - (IV) Provisions addressing steps to ameliorate the rate and service impact upon existing customers, including equitably allowing future customers to share costs incurred by the initial or existing customers served by a connection or extension (as, for example, by including a refund of customer connection or extension payments when appropriate).
 - (V) A description of specific customer categories (such as permanent, indeterminate, and temporary) within each customer class.
- (c) Upon request by a customer or a potential customer, the utility shall conduct a comparison of photovoltaic energy to any proposed distribution line extension if a customer or potential customer provides the utility with load data (estimated monthly KWh usage) requested by the utility to conduct the comparison and if the customer's or potential 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. If the customer has a ratio of estimated monthly KWh usage divided by line extension mileage that is less than or equal to 1,000 (i.e., Kwh/Mileage is $\leq 1,000$), the utility shall provide the photovoltaic system cost comparison at no cost to the customer or potential customer. If the ratio is greater than 1,000, the customer or potential customer shall bear the cost of the comparison, if the cost comparison is requested by the customer or potential customer.

3211. - 3249 [Reserved].

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MAJOR EVENTS REPORTING

3250. Definitions.

The following definition applies to rules 3250-3253, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Major Event" means an event as defined in and consistent with IEEE Standard Number 1366-2001, ***Guide for Electric Power Distribution Reliability Indices***.

3251. Notification to Commission.

Each utility shall notify the Commission of a major event as soon as possible, but in no event more than 12 hours after the onset of the major event.

3252. Report.

- (a) Within 15 calendar days after the end of a major event, a utility shall submit a written report to the Commission.
- (b) At a minimum, the report shall include the following:
- (I) The date and time when the major event began; the date and time when the utility's control center began treating the situation as a major event; and the date and time when the utility classified the major event as closed.
 - (II) The total number of customers out-of-service over the course of the major event and the general (by city or district level) area in which the major event occurred.
 - (III) The total number of affected locations by facility classification.
 - (IV) The date and time at which any mutual aid and non-utility contractor crews were requested; the date and time when each such crew arrived for duty; the date and time when each such crew was released from duty; and the non-utility contractor response(s) to the request(s) for assistance.
 - (V) A timeline profile on the number of utility line crews, mutual aid crews, and non-utility contractor line and tree crews working on restoration activities during the major event.
 - (VI) Identification of the cause(s) of the major event and of the factors which contributed to the major event.
 - (VII) A listing of each new or existing policy, procedure, and guideline which the utility will implement or has

implemented in order to prevent a similar major event or recurrence of the major event in the future.

(VIII) An affidavit of an officer of the utility, which affidavit verifies the information in the report.

3253. Supplemental or Additional Major Event Reporting.

At such time and in such form as the Commission may require, each utility shall furnish to the Commission a report in which the utility specifically answers all questions propounded regarding a major event or events and provides such other information relevant to the major event and the restoration of service as the Commission may request. The Commission may require utilities to provide these supplemental or additional reports at regular intervals, to be determined by the Commission, and on a form approved by the Commission. Periodic or special reports concerning any matter about which the Commission is concerned relative to the occurrence of one or more major events shall be furnished in a manner determined by the Commission and on a form approved by the Commission.

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METERS

3300. Service Meters and Related Equipment.

- (a) All meters used in connection with electric or steam metered service for billing purposes shall be furnished, installed, and maintained by the utility.
- (b) Any equipment, devices, or facilities (including, without limitation, service meters) furnished by the utility and which the utility maintains and renews shall remain the property of the utility and may be removed by it at any time after discontinuance of service.
- (c) Each electric service meter shall indicate clearly the KWh and units of demand, where applicable, for which the customer is charged. In cases in which 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 either on the register or face of the meter or in permanently attached and clearly visible documentation at the

meter location. In cases in which the metering installation is of such a complex nature that disclosure of the constant or factor used is unsuitable to inform the customer of quantities of utility service being consumed, the utility shall attach at the meter location instructions on how the customer can receive such information from the utility.

- (d) Each steam meter shall clearly indicate the pounds of steam used for which the customer is charged. In cases in which 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 either on the register or face of the meter or in permanently attached and clearly visible documentation at the meter location.

3301. Location of Service Meters.

- (a) As of the time of installation, meters shall be located in accordance with the pertinent utility tariffs and in accordance with accepted safe practice and electric or steam utility industry standards.
- (b) As of the time of installation, meters shall be located so as to be easily accessible for reading, testing, and servicing in accordance with accepted safe practice and in accordance with electric or steam utility industry standards.

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 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. Whenever a meter is found to exceed these limits, it shall be adjusted or replaced.
- (c) No demand meter shall have an allowable error of 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 shall be adjusted or replaced.
- (d) Meters used with instrument transformers or current transformers shall be adjusted or replaced so that the overall accuracy of the metering installation meets the requirements of this rule.
- (e) No steam service meter that has an error in registration of more than plus or minus two percent shall be placed in service. Whenever a meter is found to exceed these limits, it shall be adjusted or replaced.

3303. Meter Testing Equipment and Facilities.

- (a) Unless specifically exempted by the Commission, each utility furnishing metered electric or steam service shall 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 its testing practices. The application shall include:
 - (I) All information required by rules 3002(b) and 3002(c).
 - (II) A description of the test methods employed and the frequency of tests or observations for determining voltage of electric service furnished or steam consumed.
 - (III) A description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.
 - (IV) Rules covering testing and adjustment of service meters when installed and periodic tests after installation.
 - (V) Supporting information and justification for the items listed in subsections (II) through (IV) of this section.
- (c) Revisions to any portion of testing practices approved pursuant to the procedure in section (b) of this rule shall 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, those 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 shall 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 in accordance with the manufacturer's recommended frequency. When in use, induction-type rotating standards shall be compared with the reference standards in accordance with the manufacturer's recommended frequency. 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 tests in error of more than plus or minus one percent, that standard shall be tested, adjusted, and certified in a standardizing laboratory of recognized standing. If a utility is exempted as provided in section (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 electrical meter testing equipment shall have their calibration checked either annually or more frequently if specified by the manufacturer. For all instruments requiring an as found/as left date sheet, calibration certifications shall be kept on-site for a period of seven years or until the instruments are recertified by a laboratory of recognized standing, whichever is later. All instruments shall have a tag affixed stating the date calibrated and the date the instrument is due for recertification. If an instrument is found to be out of the manufacturer's specifications, the instrument shall be calibrated and certified to the manufacturer's specifications by a laboratory of recognized standing. Upon request from any person, a copy of the certification letter and date sheet shall be provided for the instrument in question.
- (i) A utility shall keep records of certification and calibrations for all testing equipment required by this rule for the life of the equipment.
- (j) In its tariff, a utility shall include a description of its meter testing equipment and of the methods employed to ascertain and to maintain accuracy of all testing equipment.
- (k) For those sections of this rule which require a utility to maintain facilities and equipment, a utility may meet those requirements by having the facilities and equipment readily available (as, for example and without limitation, by contracting with a testing facility). A utility which uses this section of the rule is responsible for its compliance with the provisions of this entire rule.

- (1) For those sections of this rule which require a utility to test or to maintain equipment, a utility may meet those requirements by having the equipment tested by a third party (as, for example and without limitation, an independent testing facility). A utility which uses this section of the rule is responsible for its compliance with the provisions of this entire rule.

3304. Scheduled Meter Testing.

- (a) A utility shall test, or shall arrange for testing of, service meters in accordance with the schedule in this rule or in accordance with a sampling program approved by the Commission.
- (b) If it wishes to use a sampling program, a utility shall file an application to request approval of a sampling program. The application shall include:
 - (I) The information required by rules 3002(b) and 3002(c).
 - (II) A description of the sampling program which the utility wishes to use. This description shall include, at a minimum the following:
 - (A) The type(s) of meters subject to the sampling plan.
 - (B) The frequency of testing.
 - (C) The procedures to be used for the sampling.
 - (D) The reference standard to be used for testing.
 - (E) The accuracy of the testing and of the sampling plan.
 - (III) An explanation of the reason(s) for the requested sampling program.
 - (IV) An analysis which demonstrates that, with respect to assuring the accuracy of the service meters tested, the requested sampling program is at least as effective as the schedule in this rule.
- (c) Revisions to any portion of a sampling program approved pursuant to section (b) of this rule shall be accomplished by the filing of, and Commission approval of, a new application.
- (d) Every service meter must be tested and adjusted, either before installation or no later than 60 days after installation, to ensure that it registers accurately and conforms to the requirements of rule 3302. In addition, every service meter shall be tested on a periodic basis, as follows:
 - (I) Alternating current watt-hour meters:

- (A) Polyphase meters used with instrument transformers, every four years.
 - (B) Single-phase meters used with instrument transformers, every eight years.
 - (C) Self-contained polyphase meters, every six years.
 - (D) Self-contained single-phase meters and three wire network meters, every eight years.
- (II) Direct current watt-hour meters:
- (A) Up to and including 6 KW, every 42 months.
 - (B) Over 6 KW up to and including 100 KW, every 18 months.
 - (C) Over 100 KW, every 12 months.
- (III) Var-hour meters and lagged demand meters shall be tested on the same schedule as the associated watt-hour meters in subsection (c)(I) or (II) of this rule. Integrated (block interval) demand meters, including demand registers and associated control devices, shall be tested on the same schedule as the associated watt-hour meters in subsection (c)(I) or (II) of this rule, but at least every six years.
- (IV) Steam service meters shall be tested every five years.
- (e) In its tariff, each utility shall include a description of the utility's practices concerning the following:
- (I) Testing and adjustment of service meters at installation.
 - (II) Periodic testing after installation.

3305. Meter Testing Upon Request.

- (a) Each utility furnishing metered electric or steam service shall test the accuracy of any electric or steam 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 12 months and if the customer agrees to accept the results of the test for the purposes of any dispute or informal complaint regarding the meter's accuracy; otherwise, the utility may charge a fee for performing the test. The utility shall provide a written report of the test results to the customer and shall maintain a copy on file for at least two years.
- (b) Upon written request by a customer, the Commission shall send a trained employee to witness a service meter test 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 for each meter location at which testing is observed.
 - (II) For single-phase meters above 480 volts and for polyphase meters with or without instrument transformer, \$50 for each meter location at which testing is observed.
 - (III) For steam service meters, \$50 for each meter location at which testing is observed.
- (c) This rule and the schedule of fees apply only when there is a disagreement between the customer and the utility regarding the accuracy of a meter. If the meter is found to be running fast beyond the limits prescribed in rule 3302, the utility shall reimburse the customer for any fee paid by the customer.
 - (d) In its tariff, each utility shall include any fees associated with customer-requested meter testing conducted within 12 months of a prior test.

3306. Records of Tests and Meters.

- (a) For each meter owned or used by it, a utility shall maintain a record showing the date of purchase, the manufacturer's serial number, the record of the present location, and the date and results of the last test performed by the utility. This record shall be retained for the life of the meter plus 30 months.
- (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, and all data taken at the time of the test in a sufficiently complete form to permit the convenient checking of the method employed and the calculations made. This record shall be retained for at least two years.

3307. [Reserved].

3308. [Reserved].

3309. Meter Reading.

- (a) Upon a customer's request, a utility shall provide written documentation showing the date of the most recent reading of the customer's meter and the total usage expressed in kilowatt-hours or other unit of service recorded. On request, a utility supplying metered service shall explain to its customers its method of reading meters.
- (b) In its tariff, a utility shall include 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. This statement shall specify in detail the procedure that the customer must follow and shall specify any special conditions which apply only to certain classes of service.

- (c) Absent good cause, a utility shall read a meter monthly. For good cause shown, a utility shall read a meter at least once every six months.

3310. - 3399 [Reserved].

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BILLING AND SERVICE

3400. Applicability.

Rules 3400 through 3410 apply to residential customers and to commercial customers served by a utility's rates or tariffs. In its tariffs, a utility may elect to apply the same or different terms and conditions of service to other customer classes.

3401. Billing Information and Procedures.

- (a) All bills issued to customers for metered service furnished shall show:
 - (I) The dates and meter readings beginning and ending the period during which service was rendered.
 - (II) An appropriate rate or rate code identification.
 - (III) The net amount due for regulated charges.

- (IV) The date by which payment is due, which shall not be earlier than 15 business days after the mailing or the hand-delivery of the bill.
 - (V) A distinct marking to identify an estimated bill.
 - (VI) The total amount of all payments or other credits made to the customer's account during the billing period.
 - (VII) Any past due amount. Unless otherwise stated in a tariff or Commission rule, an account becomes "past due" on the 31st day following the due date of current charges.
 - (VIII) The identification of, and amount due for, unregulated charges, if applicable.
 - (IX) Any transferred amount or balance from any account other than the customer's current account.
 - (X) All other essential facts upon which the bill is based, including factors and constants, as applicable.
- (b) A utility that bills for unregulated services or goods shall allocate any partial payment first to regulated charges and then to unregulated charges or non-tariffed charges and to the oldest balance due separately within each category.
- (c) A utility that transfers to a customer a balance from the account of a person other than that customer shall have in its tariffs the utility's benefit of service transfer policies and criteria. The tariffs shall contain an explanation of the process by which the utility will verify, prior to billing a customer under the benefit of service tariff, that the person to be billed in fact received the benefit of service.
- (d) A utility may transfer a prior unpaid debt to a customer's bill if the prior bill was in the name of the customer and the utility has informed the customer of the transferred amount and of the source of the unpaid debt (for example, and without limitation, the address of the premises to which service was provided and the period during which service was provided).
- (e) If it is offered in a tariff, upon request from a customer and where it is technically feasible, a utility may provide electronic billing (e-billing), in lieu of a typed or machine-printed bill, to the requesting customer. If a utility offers the option of e-billing, the following shall apply:
- (I) The utility shall obtain the affirmative consent of a customer to accept such a method of billing in lieu of printed bills.
 - (II) The utility shall not charge a fee for billing through the e-billing option.

- (III) The utility shall not charge a fee based on customer payment options that is different from the fee charged for the use of the same customer payment options by customers who receive printed bills.
- (IV) A bill issued electronically shall contain the same disclosures and Commission-required information as those contained in the printed bill provided to other customers.

3402. Adjustments for Meter and Billing Errors.

- (a) A utility shall adjust customer charges for electricity or steam 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 back to the previous meter test, with such period not to exceed six months. As used in this subsection, "weighted average error" means 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 one-half of the weighted average error for the period dating from the discovery of the meter error back to the previous meter test, with such period not to exceed two years. As used in this subsection, "weighted average error" means 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 estimate, using the method stated in its tariff, a charge for the electricity or steam used based on amounts metered to the customer over a similar period in previous years. The period for which the utility charges the estimated amount shall not exceed six months.
 - (IV) In the event of under-billings not provided for in subsection (a)(I) or (III) of this rule (such as, but not limited to, an incorrect multiplier, an incorrect register, or a billing error), the utility may charge for the period during which the under-billing occurred, with such period not to exceed two years.
 - (V) In the event of over-billings not provided for in subsection (a)(II) of this rule, the utility shall refund

for the period during which the over-billing occurred, with such period not to exceed two years.

- (b) The periods set out in section (a) of this rule shall commence on the date on which (1) either the customer notifies the utility or the utility notifies the customer of a meter or billing error or (2) the customer informs the utility of a billing or metering error dispute or makes an informal complaint to the External Affairs section of the Commission.
- (c) In the event of an over-billing, 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. Such over-billings shall not be subject to interest.
- (d) In the event of under-billing, the customer may elect to enter into a payment arrangement on the under-billed amount. The payment arrangement shall be equal in length to the length of time during which the under-billing lasted. Such under-billings shall not be subject to interest.

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

- (a) A utility shall process an application for utility service which is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a cash deposit prior to commencement of service.
- (b) If billing records are available for a customer who has received service from the utility, the utility shall not require that person to make new or additional cash deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies. All customers shall be treated without undue discrimination with respect to cash deposit requirements, pursuant to the utility's tariff.
- (c) A utility shall not require a cash deposit from an applicant for service who provides written documentation of a 12 consecutive month good credit history from the utility from which that person received similar service. For purposes of this section, the 12 consecutive months must have ended no earlier than 60 days prior to the date of the application for service.
- (d) If a utility uses credit scoring to determine whether to require a cash deposit from an applicant for service or a customer, the utility shall have a tariff which describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit which triggers a cash deposit requirement.
- (e) If a utility uses credit scoring, prior payment history with the utility, or customer-provided prior payment history with a like utility as a criterion for establishing the need for a cash

deposit, the utility shall include in its tariff the specific evaluation criteria which trigger the need for a cash deposit.

- (f) If a utility denies an application for service or requires a cash deposit as a condition of providing service, the utility immediately shall inform the applicant for service of the decision and shall provide, within three business days, a written explanation to the applicant for service stating the reasons the application for service has been denied or a cash deposit is required. The utility also shall advise the applicant for service of the opportunity to dispute the utility's decision and of the opportunity to make an informal complaint regarding the utility's decision to the External Affairs section of the Commission.
- (g) If a utility requires a cash deposit from a customer, the utility shall provide, within three business days, a written explanation to the customer stating the reasons a cash deposit is required. The utility also shall advise the customer of the opportunity to dispute the utility's decision and of the opportunity to make an informal complaint regarding the utility's decision to the External Affairs section of the Commission.
- (h) No utility shall require any security other than either a cash deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a cash deposit. In no event shall the furnishing of utility services or extension of utility facilities, or any indebtedness in connection therewith, result in a lien, mortgage, or other security interest in any real or personal property of the customer unless such indebtedness has been reduced to a judgment.
- (i) A cash 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 cash deposit shall not exceed an estimated 60 days' bill of the customer. The cash deposit may be in addition to any advance, contribution, or guarantee in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs.
- (j) A utility receiving cash deposits shall maintain records showing:
 - (I) The name of each customer making a cash deposit.
 - (II) The amount and date of the cash deposit.
 - (III) Each transaction, such as the payment of interest or interest credited, concerning the cash deposit.
 - (IV) Each premises where the customer receives service from the utility while the cash deposit is retained by the utility.

- (V) If the cash deposit was returned to the customer, the date on which the cash deposit was returned to the customer.
- (VI) If the unclaimed cash deposit was paid to the energy assistance organization, the date on which the cash deposit was paid to the energy assistance organization.
- (k) In its tariffs, a utility shall state its customer deposit policy for establishing or maintaining service. The tariff shall state the circumstances under which a cash deposit will be required and the circumstances under which it will be returned.
- (l) Each utility shall issue a receipt to every customer from whom a cash deposit is received. No utility shall refuse to return a cash deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.
- (m) The payment of a cash deposit shall not relieve any customer from the obligation to pay current bills as they become due. A utility is not required to apply any cash deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (n) A utility shall pay simple interest on a cash deposit at the percentage rate per annum as calculated by the Staff and in the manner provided in this section.
 - (I) At the request of the customer, the interest shall be paid to the customer either on the return of the cash deposit or annually. The simple interest on a cash deposit shall be earned from the date the cash deposit is received by the utility to the date the customer is paid. At the option of the utility, interest payments may be paid directly to the customer or by a credit to the customer's account.
 - (II) The simple interest to be paid on a cash deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 12 monthly average rates of interest expressed in percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the *Federal Reserve Bulletin*, by the Board of Governors of the Federal Reserve System. Each year, the Staff shall compute the interest rate to be paid. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is less than 25 basis points, the existing customer deposit interest rate shall continue for the next calendar year. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is 25 basis points or more, the newly calculated customer deposit interest rate shall be used. The Commission shall send a letter to each utility stating

the rate of interest to be paid on cash deposits during the next calendar year. Annually following receipt of Staff's letter, if necessary, each utility shall file by advice letter or application, as appropriate, a revised tariff, effective the first day of January of the following year, or on an alternative date set by the Commission, containing the new rate of interest to be paid upon customers' cash deposits, except when there is no change in the rate of interest to be paid on such deposits.

- (o) A utility shall have tariffs concerning third-party guarantee arrangements and, pursuant to those tariffs, shall offer the option of a third party guarantee arrangement for use in lieu of a cash deposit. The following shall apply to third-party guarantee arrangements:
 - (I) An applicant for service or a customer may elect to use a third-party guarantor in lieu of paying a cash deposit.
 - (II) The third-party guarantee form, signed by both the third-party guarantor and the applicant for service or the customer, shall be provided to the utility.
 - (III) The utility may refuse to accept a third-party guarantee if the guarantor is not a customer in good standing at the time of the guarantee.
 - (IV) The amount guaranteed shall not exceed the amount which the applicant for service or the customer would have been required to provide as a cash deposit.
 - (V) The guarantee shall remain in effect until the earlier of the following occurs: it is terminated in writing by the guarantor; if the guarantor was a customer at the time of undertaking the guarantee, the guarantor is no longer a customer of the utility; or the customer has established a satisfactory payment record, as defined in the utility's tariffs, for 12 consecutive months.
 - (VI) Should the guarantor terminate service or terminate the third party guarantee before the customer has established a satisfactory payment record for 12 consecutive months, the utility, applying the criteria contained in its tariffs, may require a cash deposit or a new third party guarantor.
- (p) A utility shall pay all unclaimed monies, as defined in § 40-8.5-103(5), C.R.S., that remain unclaimed for more than two years to the energy assistance organization. "Unclaimed monies" shall not include (1) undistributed refunds for overcharges subject to other statutory provisions and rules and (2) 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 cash deposit or the construction advance was made or when left with the utility for more than two years after the cash deposit or the construction advance becomes payable to the customer pursuant to a final Commission order establishing the terms and conditions for the return of such deposit or advance and the utility has made reasonable efforts to locate the customer.

- (II) Interest on a cash deposit shall accrue at the rate established pursuant to section (n) of this rule commencing on the date on which the utility receives the cash deposit and ending on the date on which the cash deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed cash deposit to the energy assistance organization within four months of the date on which the unclaimed cash deposit is deemed to be unclaimed or abandoned pursuant to subsection (o)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed cash deposit at the rate established pursuant to section (n) of this rule plus 6%.
- (III) Interest on a construction advance shall accrue at the rate established pursuant to section (n) of this rule commencing on the date on which the construction advance is deemed to be owed to the customer pursuant to the utility's extension policy and ending on the date on which the construction advance is paid to the energy assistance organization. If the utility does not pay the unclaimed construction advance to the energy assistance organization within four months of the date on which the unclaimed construction advance is deemed to be unclaimed or abandoned pursuant to subsection (o)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed construction advance at the rate established pursuant to section (n) of this rule plus 6%.
- (q) A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.
- (r) If a utility has paid unclaimed monies to the energy assistance organization, a customer later makes an inquiry claiming those monies, and the utility resolves the inquiry by paying those monies to the customer, the utility may deduct the amount paid to the customer from future funds submitted to the energy assistance organization.
- (s) For purposes of sections (p), (q), (r) of this rule, "utility" means and includes (1) a cooperative electric association which elects to be so governed and (2) a utility as defined in rule 3001(ff).

3404. Installment Payments.

- (a) In its tariffs, a utility shall have a budget or levelized payment plan available for its customers.
- (b) In its tariff, a utility shall have an installment payment plan which permits a customer to make installment payments if one of the following applies:
 - (I) The plan is to pay regulated charges from past billing periods and the past due amount arises solely from events under the utility's control (such as, without limitation, 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). A utility shall advise a customer who is eligible for this type of plan of the customer's eligibility. At the request of the customer and at the customer's discretion, an installment payment plan under this subsection shall extend over a period equal in length to that during which the errors were accumulated and shall not include interest.
 - (II) The customer pays at least ten percent of the amount shown on the notice of discontinuance for regulated charges and enters into an installment payment plan on or before the expiration date of the notice of discontinuance.
 - (III) The customer pays at least ten percent of any regulated charges amount more than 30 days past due and enters into an installment payment plan on or before the last day covered by a medical certification. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certification shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certification which meets the requirements of rule 3407(e)(IV) and then may resume the installment payment plan.
 - (IV) If service has been disconnected, the customer pays at least any collection and reconnection charges and enters into an installment payment plan. This subsection shall not apply if service was discontinued because the customer breached a prior payment arrangement.
- (c) Installment payment plans shall include the following amounts that are applicable at the time the customer requests a payment arrangement:
 - (I) The unpaid remainder of amounts due for regulated charges shown on the notice of discontinuance.

- (II) Any amounts due for regulated charges not included in the amount shown on the notice of discontinuance which have since become more than 30 days past due.
 - (III) All current regulated charges contained in any bill which is past due but is less than 30 days past the due date.
 - (IV) Any new regulated charges contained in any bill which has been issued but is not past due.
 - (V) Any regulated charges which the customer has incurred since the issuance of the most recent monthly bill.
 - (VI) Any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill.
 - (VII) 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 a cash deposit required as a condition of initiating service.
 - (VIII) Any other regulated charges or fees provided in the utility's tariff (including without limitation miscellaneous service charges, investigative charges, and checks returned for insufficient funds charges), whether or not they have appeared on a regular monthly bill.
- (d) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with a copy of this rule and a statement describing the payment arrangement. The statement describing the payment arrangement shall include the following:
- (I) The terms of the payment plan.
 - (II) A description of the steps which the utility will take if the customer does not abide by payment plan.
 - (III) A statement informing the customer of the opportunity to dispute the terms of the payment plan and of the opportunity to make an informal complaint to the External Affairs Staff of the Commission.
- (e) Except as provided in subsection (b)(I) of this rule, an installment payment plan shall consist, at a minimum, of equal monthly installments for a term selected by the customer but not to exceed six months. In the alternative, the customer may choose a modified budget billing, levelized payment, or similar tariffed payment arrangement 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 changes. The resulting amount shall be divided and billed in 11 equal monthly budget billing payments, followed by a settlement billing

in the twelfth month, or shall follow other payment-setting practices consistent with the tariffed plan available.

- (f) For an installment payment plan entered into pursuant to this rule, the first monthly installment payment, and with the new charges (unless the new charges have been made part of the arrangement amount) shall be due on a date which is not earlier than the next regularly-scheduled due date of the customer who is entering into the installment payment plan. Succeeding installment payments, together with the new charges, shall be due in accordance with the due date established in the installment payment plan. Any payment not made on the due date established in the installment payment plan shall be considered in default. Any new charges that are not paid by the due date shall be considered past due, excluding those circumstances covered in subsection (b)(I) of this rule.
- (g) This rule shall not be construed to prevent a utility from offering any other installment payment plan terms to avoid discontinuance or terms for restoration of service, provided the terms are at least as favorable to the customer as the terms set out in this rule.

3405. Service, Rate, and Usage Information.

- (a) A utility shall inform its customers of any change proposed or made in any term or condition of its service if that change or proposed change will affect the quality of the service provided.
- (b) A utility shall transmit information provided pursuant to this rule through the use of a method (such as, without limitation, bill inserts or periodic direct mail) that will assure receipt by each customer.
- (c) Upon request, a utility must provide the following information to a customer:
 - (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 each class whose rates are not summarized.
 - (III) A clear and concise explanation of the existing rate schedule applicable to the customer. This shall be provided within ten days of a customer's request or, in the case of a new customer, within 60 days of the commencement of service.
 - (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 are not reasonably ascertainable by the utility.

- (V) Any other information and assistance as may be reasonably necessary to enable the customer to secure safe and efficient service.

3406. Component and Source Disclosures.

- (a) By June 1 of each year, a 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 shall be accompanied by documentation supporting the calculations used to determine the percentages set forth in the disclosure.
- (b) Each utility shall provide, by a bill insert or a separate mailing, the following itemized information to its customers in April and October of each year:
 - (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. As used in this rule, "power supply" includes all generation, purchase power, and non-utility transmission components. As used in this rule, "power delivery" includes all utility transmission and distribution components.
 - (II) The power supply mix, which lists 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 reasonable efforts to identify and to include, to the extent that they are identifiable, all power supplied by non-utility generation sources in the power supply fuel source composition. 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%; text-align: center;">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%																						

3407. Discontinuance of Service.

- (a) A utility shall not discontinue the service of a customer for any reason other than the following:
- (I) Nonpayment of regulated charges.
 - (II) Fraud or subterfuge.
 - (III) Service diversion.
 - (IV) Equipment tampering.
 - (V) Safety concerns.
 - (VI) Exigent circumstances.

- (VII) Discontinuance ordered by any appropriate governmental authority.
 - (VIII) Properly discontinued service being restored by someone other than the utility when the original cause for proper discontinuance has not been cured.
- (b) A utility shall not discontinue service for nonpayment of any of the following:
- (I) Any amount which has not appeared on a regular monthly bill or which is not past due. Unless otherwise stated in a tariff or Commission rule, an account becomes "past due" on the 31st day following the due date of current charges.
 - (II) Any amount due on another account now or previously held or guaranteed by the customer, or with respect to which the customer received service, unless the amount has first been transferred either to an account which is for the same class of service or to an account which the customer has agreed will secure the other account. Any amount so transferred shall be considered due on the regular due date of the bill on which it first appears and shall be subject to notice of discontinuance as if it had been billed for the first time.
 - (III) Any amount due on an account on which the customer is or was neither the customer of record nor a guarantor, or any amount due from a previous occupant of the premises. This subsection does not apply if the customer is or was obtaining service through fraud or subterfuge or if rule 3401(c) applies.
 - (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 and without the customer's knowledge or consent.
 - (V) Any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred.
 - (VI) Any debt except that incurred for service rendered by the utility in Colorado.
 - (VII) Any unregulated charge.
- (c) If the utility discovers any connection or device installed on the customer's premises, including any energy-consuming device connected on the line side of the utility's meter, which would prevent the meter from registering the actual amount of energy used, the utility shall do one of the following:
- (I) Remove or correct such devices or connections. If the utility takes this action, it shall leave at the premises a

written notice which advises the customer of the violation, of the steps taken by the utility to correct it, and of the utility's ability to bill the customer for any estimated energy consumption not properly registered. This notice shall be left at the time the removal or correction occurs.

- (II) Provide the customer with written notice that the device or connection must be removed or corrected within ten calendar days and that the customer may be billed for any estimated energy consumption not properly registered. If the utility elects to take this action and the device or connection is not removed or corrected within the ten calendar days permitted, then within seven calendar days from the expiration of the ten days, the utility shall remove or correct the device or connection pursuant to subsection (c)(I) of this rule.
- (d) If a utility discovers evidence that any utility-owned equipment has been tampered with or that service has been diverted, the utility shall provide the customer with written notice of the discovery. The written notice shall inform the customer of the steps the utility will take to determine whether non-registration of energy consumption has or will occur and shall inform the customer that the customer may be billed for any estimated energy consumption not properly registered. The utility shall mail or hand-deliver the written notice within three calendar days of making the discovery of tampering or service diversion.
- (e) A utility shall not discontinue service, other than to address safety concerns or in exigent circumstances, if one of the following is met:
 - (I) 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 charge for a service call shall not be required to avoid discontinuance.
 - (II) If a customer pays, on or before the expiration date of the notice of discontinuance, at least one-tenth of the amount shown on the notice and enters into an installment payment plan with the utility, as provided in rule 3404.
 - (III) If it is between 12 Noon on Friday and 8 a.m. the following Monday; between 12 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12 Noon on the day prior to and 8:00 a.m. on the day following any day during which the utility's local office is not open.
 - (IV) If discontinuance of residential service would aggravate an existing medical condition or would 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. The certification shall show clearly the name of the customer or individual whose illness is at issue and the Colorado medical identification number, the telephone number, and the signature of the physician or health care practitioner acting under a physician's authority who certifies the medical emergency. The certification shall be incontestable by the utility as to medical judgment, although the utility may use reasonable means to verify the authenticity of the certification. A medical certification is effective on the date it is received by the utility and is valid to prevent discontinuance of service for 60 days. The customer may receive one 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this subsection only once in any 12 consecutive month period.

3408. Notice of Discontinuance of Service.

- (a) Except as provided in sections (g) and (h) of this rule, a utility shall provide, by first class mail or by hand-delivery, written notice of discontinuance of service at least 15 business days in advance of any proposed discontinuance of service. The notice shall 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 ABOUT YOUR LEGAL RIGHTS AND REMEDIES.
YOU MUST ACT PROMPTLY TO AVOID UTILITY SHUT OFF.

- (b) The body of the notice of discontinuance under section (a) of this rule shall advise the customer of the following:
- (I) The reason for the discontinuance of service and of the particular rule (if any) which has been violated.
 - (II) The amount past due for utility service, deposits, or other regulated charges, if any.
 - (III) The date by which an installment payment plan must be entered into or full payment must be received in order to avoid discontinuance of service.
 - (IV) How and where the customer can pay or enter into an installment payment plan prior to the discontinuance of service.
 - (V) That the customer may avoid discontinuance of service by entering into an installment payment plan with the utility pursuant to rule 3404 and the utility's applicable tariff.

- (VI) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency.
 - (VII) That the customer has the right to dispute the discontinuance directly with the utility by contacting the utility, and how to contact the utility toll-free from within the utility's service area.
 - (VIII) That the customer has the right to make an informal complaint to the External Affairs section of the Commission in writing, by telephone, or in person, along with the Commission's address and local and toll-free telephone number.
 - (IX) That the customer has the right to file a formal complaint, in writing, with the Commission pursuant to rule 1302 and that this formal complaint process may involve a formal hearing.
 - (X) That in conjunction with the filing of a formal complaint, the customer has a right to file a motion for a Commission order ordering the utility not to disconnect service pending the outcome of the formal complaint process and that the Commission may grant the motion upon such terms as it deems reasonable, including but not limited to the posting of a cash deposit or bond with the utility or timely payment of all undisputed regulated charges.
 - (XI) That if service is discontinued for non-payment, the customer may be required, as a condition of restoring service, to pay reconnection and collection charges in accordance with the utility's tariff.
 - (XII) That qualified low-income customers may be able to obtain financial assistance to assist with the payment of the utility bill and that more detailed information on that assistance may be obtained by calling the utility toll-free. The utility shall state its toll-free telephone number.
- (c) At the time it provides notice of discontinuance to the customer, a 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 arrangement.
 - (d) A discontinuance notice shall be printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.

- (e) A utility shall explain and shall offer the terms of an installment payment plan to each customer who contacts the utility in response to a notice of discontinuance of service.
- (f) Following the issuance of the notice of discontinuance of service, and at least 24 hours prior to discontinuance of service, a utility shall attempt to give notice of the proposed discontinuance in person or by telephone both to the customer 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 to do so, it shall leave written notice of the attempted contact and its purpose.
- (g) If a customer has entered into an installment payment plan and has defaulted or allowed a new bill to remain unpaid past its due date, a utility shall provide, by first class mail or by hand-delivery, a written notice to the customer. The notice shall contain:
 - (I) A heading as follows: NOTICE OF BROKEN ARRANGEMENT.
 - (II) Statements that advise the customer:
 - (A) That the utility may discontinue service if it does not receive the monthly installment payment within ten days after the notice is mailed or hand-delivered.
 - (B) That the utility may discontinue service if it does not receive payment for the current bill within 30 days after its due date.
 - (C) That, if service is discontinued, the utility may refuse to restore service until the customer pays all amounts for regulated service more than 30 days past due and any collection or reconnection charges.
 - (D) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency.
- (h) A utility is not required to provide notice under this rule if one of the following applies:
 - (I) The situation involves safety concerns or exigent circumstances.
 - (II) Discontinuance is ordered by any appropriate governmental authority.
 - (III) Either rule 3407(c) or rule 3407(d) applies.

- (IV) 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.
- (i) Where a utility knows that the service to be discontinued is used by customers in multi-unit dwellings, in places of business, or in a cluster of dwellings or places of business and the utility service is recorded on a single meter used either directly or indirectly by more than one 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 may include the current bill.
 - (III) The utility shall provide written notice to each individual unit, stating that a notice of discontinuance has been sent to the party responsible for the payment of utility bills for the unit and that the occupants of the 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.
 - (IV) The utility shall post the notice in at least one of the common areas of the affected location.

3409. Restoration of Service.

- (a) Unless prevented from doing so by safety concerns or exigent circumstances, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 3407, 3408, and 3409.
- (b) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service within 24 hours (excluding weekends and holidays), or within 12 hours if the customer pays any necessary after-hours charges established in tariffs, if the customer does any of the following:
 - (I) Pays in full the amount for regulated charges shown on the notice and any deposit and/or fees as may be specifically required by the utility's tariff in the event of discontinuance of service.
 - (II) Pays any reconnection and collection charges specifically required by the utility's tariff, enters into an installment payment plan, and makes the first installment payment, unless the cause for discontinuance was the customer's breach of such an arrangement.
 - (III) Presents a medical certification, as provided in rule 3407(e)(IV).

- (IV) Demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

3410. Refunds.

- (a) If it seeks to refund monies, a utility shall file an application for Commission approval of a refund plan.
- (b) The application for approval of a refund plan shall include, in the following order and specifically identified, the following information either in the application or in the appropriately identified attached exhibits:
 - (I) All the information required in rules 3002(b) and 3002(c).
 - (II) The reason for the proposed refund.
 - (III) A detailed description of the proposed refund plan, including the type of utility service involved, the service area involved, the class(es) of customers to which the refund will be made, and the dollar amount (both the total amount and the amount to be paid to each customer class) of the proposed refund. The interest rate on the refund shall be the current interest rate in the applying utility's customer deposits tariff.
 - (IV) The date the applying utility proposes to start making the refund, which shall be no 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.
 - (V) If applicable, a reference (by docket number, decision number, and date) to any Commission decision requiring the refund or, if the refund is to be made because of receipt of monies by the applying utility under the order of a court or of another state or federal agency, a copy of the order.
 - (VI) A statement describing in detail the extent to which the applying utility has any financial interest in any other company involved in the refund plan.
 - (VII) A statement showing accounting entries under the Uniform System of Accounts.
 - (VIII) A statement that, if the application is granted, the applying utility will file an affidavit establishing that the refund has been made in accordance with the Commission's decision.
- (c) A utility shall pay 90% of all undistributed balances, plus associated interest, to the energy assistance organization. For purposes of this rule, 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.

- (d) A utility shall pay an undistributed refund to the energy assistance organization within four months after the refund is deemed undistributed. A utility shall pay interest on an undistributed refund from the time it receives the refund until the refund is paid to the energy assistance organization. If the refund is timely paid to the energy assistance organization, the interest rate shall be equal to the interest rate set by the Commission pursuant to rule 3403(n). If the refund is not timely paid, the interest rate shall be equal to the interest rate set by the Commission pursuant to rule 3403(n) plus an additional six percent.
- (e) Whenever a utility makes a refund, it shall provide written notice to those customers that it believes may be master meter operators. The notice shall contain:
 - (I) The definition of master meter operator, as set forth in these rules.
 - (II) A statement regarding a master meter operator's obligation to do the following:
 - (A) To notify its end users of their right to claim, within 90 days, their proportionate share of the refund.
 - (B) After 90 days, if the unclaimed balance exceeds \$100, to remit the unclaimed balance to the energy assistance organization.
- (f) A utility shall resolve all inquiries regarding a customer's undistributed refund and shall not refer such inquiries to the energy assistance organization.
- (g) If a utility has paid an undistributed refund to the energy assistance organization, a customer later makes an inquiry claiming that refund, and the utility resolves the inquiry by paying that refund to the customer, the utility may deduct the amount paid to the customer from future funds submitted to the energy assistance organization.
- (h) For purposes of sections (c), (d), (e), (f), and (g) of this rule, "utility" means and includes (1) a cooperative electric association which elects to be so governed and (2) a utility as defined in rule 4001(ff).

3411. - 3499 [Reserved].

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UNREGULATED GOODS AND SERVICES

3501. - 3599. [Reserved].

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LEAST-COST PLANNING

3600. Special Definitions.

The following definitions apply to rules 3600 - 3615. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Availability factor" means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.

- (b) "Annual capacity factor" means the ratio of the net energy produced by a generating facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year-round.
- (c) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.
- (d) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, with end-use services of such customers held constant.
- (e) "Energy efficiency" means increases in energy conservation, reduced demand or improved load factors resulting from hardware, equipment, devices, or practices that are installed or instituted at a customer facility. Energy efficiency measures can include fuel switching.
- (f) "Heat Rate" means the ratio of energy inputs used by a generating facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kilowatt-hours.
- (g) "Least-cost resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.
- (h) "Net present value of rate impact" means the current worth of the average annual rates associated with a particular resource portfolio, expressed in dollars per kilowatt-hour in the year the plan is filed. The net present value of rate impact for a particular resource portfolio is first calculated by discounting the total annual revenue requirement by the appropriate discount rate. The discounted revenue requirement is then divided by the total utility kilowatt-hour requirement for that year and averaged across the years of the planning period. The total annual revenue requirement for each year of the planning period is the total expected future revenue requirements associated with a particular resource portfolio.
- (i) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of rate impact for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.
- (j) "Renewable resource" means any facility, technology, measure, plan or action utilizing a renewable "fuel" source such as wind; solar; biomass; geothermal; municipal, animal, waste-tire or other waste; or hydroelectric generation of twenty megawatts or less.
- (k) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific

resources to meet projected electric system demand. The resource acquisition period begins from the date the utility files its plan with the Commission.

- (l) "Resources" means supply-side resources, energy efficiency, or renewable resources used to meet electric system requirements.
- (m) "Supply-side resource" means a resource that can provide electrical energy or capacity to the utility. Supply-side resources include utility-owned generating facilities, and energy or capacity purchased from other utilities and non-utilities.
- (n) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3601. Overview.

The purpose of these rules is to establish a process to determine the need for additional electric resources by Commission jurisdictional electric utilities, pursuant to the power to regulate public utilities delegated to the Commission by Article XXV of the Colorado Constitution and by §§ 40-2-123, 40-3-102, 40-3-111, and 40-4-101, C.R.S. It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. This process is intended to result in least-cost resource portfolios, taking into consideration projected system needs, reliability of proposed resources, expected generation loading characteristics, and various risk factors. The rules are intended to be neutral with respect to fuel type or resource technology.

3602. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (*i.e.* rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3603. Least-Cost Resource Plan Filing Requirements.

Jurisdictional electric utilities, as described in rule 3602, shall file a least-cost resource plan (plan) pursuant to these rules on or before October 31, 2003, and every four years thereafter. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing. Each utility shall file an original and fifteen copies of the plan with the Commission.

3604. Contents of the Least-Cost Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility

shall provide work-papers to support the information contained in the plan. The plan shall include the following:

- (a) A statement of the utility-specified resource acquisition period, and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire least-cost plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of base-load, intermediate and peaking needs of the utility system.
- (b) An annual electric demand and energy forecast developed pursuant to rule 3606.
- (c) An evaluation of existing resources developed pursuant to rule 3607.
- (d) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule 3608.
- (e) An assessment of need for additional resources developed pursuant to rule 3609.
- (f) A description of the utility's plan for acquiring these resources pursuant to rule 3610.
- (g) The proposed RFP(s) the utility intends to use to solicit bids for the resources to be acquired through a competitive acquisition process, pursuant to rule 3612.
- (h) An explanation stating whether current rate designs for each major customer class are consistent with the contents of its plan. The utility shall also explain whether possible future changes in rate design will facilitate its proposed resource planning and resource acquisition goals.

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, 3608(a) and 3609. Each cooperative generation and transmission association shall also file annual reports pursuant to rules 3614(a)(I) through 3614(a)(VI).

3606. Electric Energy and Demand Forecasts.

- (a) Forecast Requirements. The utility shall prepare the following energy and demand forecasts for each year within the planning period:

- (I) Annual sales of energy and coincident summer and winter peak demand in total and disaggregated among Commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states.
 - (II) Annual sales of energy and coincident summer and winter peak demand on a system-wide basis for each major customer class.
 - (III) Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand.
 - (IV) Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand.
 - (V) Annual system losses and the allocation of such losses to the transmission and distribution components of the system. Coincident summer and winter peak system losses and the allocation of such losses to the transmission and distribution components of the systems.
 - (VI) Typical day load patterns on a system-wide basis for each major customer class. This information shall be provided for peak-day, average-day, and representative off-peak days for each calendar month.
- (b) Range of forecasts. The utility shall develop and justify a range of forecasts of coincident summer and winter peak demand and energy sales that its system may reasonably be required to serve during the planning period. The range shall include base case, high, and low forecast scenarios of coincident summer and winter peak demand and energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.
- (c) Required Detail.
- (I) In preparing forecasts, the utility shall develop forecasts of energy sales and coincident summer and winter peak demand for each major customer class. The utility shall use end-use, econometric or other supportable methodology as the basis for these forecasts. If the utility determines not to use end-use analysis, it shall explain the reason for its determination as well as the rationale for its chosen alternative methodology.
 - (II) The utility shall explain the effect on its energy and coincident peak demand forecast of all existing energy efficiency and energy conservation programs for each major customer class, as well as any such measures that have been approved by the Commission but are not included in the forecasts.

- (III) The utility shall maintain, as confidential, information reflecting historical and forecasted demand and energy use for individual customers in those cases when an individual customer is responsible for the majority of the demand and energy used by a particular rate class. However, when necessary in the least-cost resource plan proceedings, such information may be disclosed to parties who intervene in accordance with the terms of non-disclosure agreements approved by the Commission and executed by the parties seeking disclosure.
- (d) Historical Data. The utility shall compare the annual forecast of coincident summer and winter peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the five years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecasts in its most recently filed resource plan to the annual forecasts in the current resource plan.
- (e) Description and Justification. The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this rule, as well as the forecasts themselves.
- (f) Format and Graphical Presentation of Data. The utility shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting parties in such electronic formats as the Commission shall reasonably require.

3607. Evaluation of Existing Generation Resources.

- (a) Existing Generation Resource Assessment. The utility shall describe its existing generation resources, all utility-owned generating facilities for which the utility has obtained a CPCN from the Commission pursuant to C.R.S. § 40-5-101 at the time the plan is filed, and existing or future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description shall include, when applicable, the following:
- (I) Name(s) and location(s) of utility-owned generation facilities.
- (II) Rated capacity and net dependable capacity of utility-owned generation facilities.
- (III) Fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities over the planning period.

- (IV) Estimated in-service dates for utility-owned generation facilities for which a CPCN has been granted but which are not in service at the time the plan under consideration is filed.
 - (V) Estimated remaining useful lives of existing generation facilities without significant new investment or maintenance expense.
 - (VI) The amount of capacity and/or energy purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy purchased pursuant to such contracts.
 - (VII) The amount of capacity and energy provided pursuant to wheeling or coordination agreements, the duration of such wheeling or coordination agreements, and a description of any contract provisions that allow for modification of the amount of capacity and energy provided pursuant to such wheeling or coordination agreements.
- (b) Utilities required to comply with these rules shall coordinate their plan filings such that the amount of electricity purchases and sales between utilities during the planning period is reflected uniformly in their respective plans. Disputes regarding the amount, timing, price, or other terms and conditions of such purchases and sales shall be fully explained in each utility's plan. If a utility files an interim plan as specified in rule 3603, the utility is not required to coordinate that filing with other utilities.
- (c) Existing Transmission Capabilities and Future Needs.
- (I) The utility shall report its existing transmission capabilities, and future needs during the planning period, for facilities of 115 kilovolts and above, including associated substations and terminal facilities. The utility shall generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources. With respect to future needs, the utility shall explain the need for facilities based upon future load projections (including reserves). To the extent reasonably available, the utility shall include a description of the length and location of any additional facilities needed, their estimated costs, terminal points, voltage and megawatt rating, alternatives considered or under consideration, and other relevant information.
 - (II) In order to equitably compare possible resource alternatives, the utility shall consider all transmission costs required by, or imposed on the system by, a particular resource as part of the bid evaluation criteria.

3608. Planning Reserve Margins.

- (a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices).
- (b) The utility shall develop and justify planning reserve margins for each year of the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: (1) the development of generation, (2) losses of generation capacity, (3) purchase of power, (4) losses of transmission capability, (5) risks due to known or reasonably expected changes in environmental regulatory requirements, and (6) other risks. The utility shall develop planning reserve margins for its system for each year of the planning period outside of the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.
- (c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for each year of the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its contingency plans for the acquisition of additional resources if actual circumstances deviate from the most likely estimate of future resource needs developed pursuant to rule 3609. The Commission will consider approval of contingency plans only after the utility receives bids, as described in rule 3614(b)(II). The provisions of rule 3613(d) shall not apply to the contingency plans unless explicitly ordered by the Commission.

3609. Assessment of Need for Additional Resources.

By comparing the electric energy and demand forecasts developed pursuant to rule 3606 with the existing level of resources developed pursuant to rule 3607, and planning reserve margins developed pursuant to rule 3608, the utility shall assess the need to acquire additional resources during the resource acquisition period.

3610. Utility Plan for Meeting the Resource Need.

- (a) The utility shall describe its least-cost resource plan for acquiring the resources to meet the need identified in rule 3609. The utility shall specify the portion of the resource need that it intends to meet as a part of a stand-alone voluntary tariff service, where all costs are separate from standard tariff services, if any. If the utility chooses to offer a stand-alone voluntary service, it must comply with the provisions of rule 3610(e); and the costs associated with any independent auditor will be assigned to the stand-alone voluntary service offering and will not be borne by the general body of utility ratepayers.

The utility shall specify the portion of the resource need that it intends to meet through a competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.

- (b) The utility shall meet the resource need identified in the plan through a competitive acquisition process, unless the Commission approves an alternative method of resource acquisition. If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire and the reason the specific resource(s) should not be acquired through a competitive acquisition process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition. The least-cost resource plan shall describe and shall estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process. The utility shall also explain and shall justify how the alternative method of resource acquisition complies with the requirements of the Public Utility Regulatory Policies Act of 1978 and Commission rules implementing that act. The lesser of 250 megawatts or ten percent of the highest base case forecast peak requirement identified for the resource acquisition period shall be the maximum amount of power that the utility may obtain through such alternative method of resource acquisition (1) in any single resource acquisition period and (2) from any single specific resource, regardless of the number of resource acquisition periods over which the units, plants, or other components of the resource might be built or the output of the resource made available for purchase.
- (c) The utility shall have the flexibility to propose multiple acquisitions at various times over the resource acquisition period. However, the limits specified in section (b) of this rule shall apply to the total resources acquired through an alternative method during an entire four-year least-cost planning cycle.
- (d) Each utility shall establish, and shall include as a part of its filing, a written bidding policy to ensure that bids are solicited and evaluated in a fair and reasonable manner. The utility shall specify the competitive acquisition procedures that it intends to use to obtain resources under the utility's plan.

- (e) If the utility intends to accept proposals from the utility or from an affiliate of the utility, the utility shall include as part of its filing a written separation policy and the name of an independent auditor whom the utility proposes to hire to review, and to have report to the Commission on, the fairness of the competitive acquisition process. The independent auditor shall have at least five years' experience conducting and/or reviewing the conduct of competitive electric utility resource acquisition, including computerized portfolio costing analysis. The independent auditor shall be unaffiliated with the utility and shall not have benefited, directly or indirectly, from employment or contracts with the utility in the preceding five years, except as an independent auditor under these rules. The independent auditor shall not participate in, or advise the utility with respect to, any decisions in the bid solicitation or bid evaluation process. The independent auditor shall conduct an audit of the utility's bid solicitation and evaluation process to determine whether it was conducted fairly. For purposes of such audit, the utility shall provide the independent auditor immediate and continuing access to all documents and data reviewed, used, or produced by the utility in its bid solicitation and evaluation process. The utility shall make all its personnel, agents, and contractors involved in the bid solicitation and bid evaluation available for interview by the auditor. The utility shall conduct any additional modeling requested by the independent auditor to test the assumptions and results of the bid evaluation analyses. Within sixty days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. After the filing of the independent auditor's report, the utility, other bidders in the resource acquisition process and other interested parties shall be given the opportunity to review and to comment on the independent auditor's report.
- (f) In selecting its final resource plan, the utility's objective shall be to minimize the net present value of rate impacts, consistent with reliability considerations and with financial and development risks. In its bid solicitation and evaluation process, the utility shall consider renewable resources; resources that produce minimal emissions or minimal environmental impact; energy-efficient technologies; and resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases. Further, the utility shall grant a preference to such resources where cost and reliability considerations are equal.

3611. Exemptions from competitive acquisition.

The following resources need not be acquired through a competitive acquisition process and need not be included in an approved Least-Cost Plan prior to acquisition:

- (a) Emergency maintenance or repairs made to utility-owned generation facilities.
- (b) Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than 30 megawatts.
- (c) Capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for not more than a two year term (including renewal terms) or for not more than 30 megawatts of capacity.
- (d) Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than 30 megawatts, based on the utility's share of the total power generation at the facility site and that have an estimated cost of not more than \$30 million.
- (e) Interruptible service provided to the utility's electric customers.
- (f) Modification to, or amendment of, existing power purchase agreements provided the modification or amendment does not extend the agreement more than four years, does not add more than 30 MW of capacity to the utility's system, and is cost effective in comparison to other supply-side alternatives available to the utility.
- (g) Utility investments in emission control equipment at existing generation plants.

3612. Request(s) For Proposals.

- (a) Purpose of the Request(s) for Proposals. The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire additional resources pursuant to rule 3610.
- (b) Contents of the Request(s) for Proposals. The proposed RFP(s) shall include the bid evaluation criteria the utility plans to use in ranking the bids received. The utility shall also include in its proposed RFP(s): (1) base-load, intermediate, and/or peaking needs and preferred fuel type; (2) reasonable estimates of transmission costs for resources located in different areas; (3) the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control; (4) the utility's proposed standard contract(s) for the acquisition of resources; (5) proposed contract term lengths; (6) discount rate; (7) general planning assumptions; and (8) any other information necessary to implement a fair and reasonable bidding program.

3613. Commission Review and Approval of Least-Cost Resource Plans.

- (a) Review on the Merits. The utility's plan, as developed pursuant to rule 3604, shall be filed as an application; shall meet the requirements of rules 3002(b) and 3002(c); and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure. The Commission may hold a hearing for the purpose of reviewing, and rendering a decision regarding, the contents of the utility's filed least-cost resource plan.
- (b) Basis for Commission Decision. Based upon the evidence of record, the Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part, to the utility's plan. If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission and shall provide copies to all parties who participated in the application docket concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.
- (c) Contents of the Commission Decision. The Commission decision approving or denying the plan shall address the contents of the utility's plan filed in accordance with rule 3604. If the record contains sufficient evidence, the Commission shall specifically approve or modify: (1) the utility's assessment of need for additional resources in the resource acquisition period; (2) the utility's plans for acquiring additional resources through the competitive acquisition process or through an alternative acquisition process; and (3) components of the utility's proposed RFP, such as the proposed evaluation criteria.
- (d) Effect of the Commission Decision. A Commission decision specifically approving the components of a utility's plan creates a presumption that utility actions consistent with that approval are prudent. Because the Commission will not approve a utility's selection of specific resources, the Commission's approval of a plan creates no presumptions regarding those resources.
 - (I) In a proceeding concerning the utility's request to recover the investments or expenses associated with new resources:
 - (A) The utility must present *prima facie* evidence that its actions were consistent with Commission decisions specifically approving or modifying components of the plan.

- (B) To support a Commission decision to disallow investments or expenses associated with new resources on the grounds that the utility's actions were not consistent with a Commission approved plan, an intervenor must present evidence to overcome the utility's *prima facie* evidence that its actions were consistent with Commission decisions approving or modifying components of the plan. Alternatively, an intervenor may present evidence that, due to changed circumstances timely known to the utility or that should have been known to a prudent person, the utility's actions were not proper.

- (II) In a proceeding concerning the utility's request for a certificate of public convenience and necessity to meet customer need specifically approved by the Commission in its decision on the least-cost resource plan, the Commission shall take administrative notice of its decision on the plan. Any party challenging the Commission's decision regarding need for additional resources has the burden of proving that, due to a change in circumstances, the Commission's decision on need is no longer valid.

3614. Reports

- (a) Annual Progress Reports. The utility shall file with the Commission, and shall provide to all parties to the most recent least-cost planning docket, annual progress reports after submission of its plan application. The annual progress reports will inform the Commission of the utility's efforts under the approved plan. Annual progress reports shall also contain the following:
 - (I) An updated annual electric demand and energy forecast developed pursuant to rule 3606.
 - (II) An updated evaluation of existing resources developed pursuant to rule 3607.
 - (III) An updated evaluation of planning reserve margins and contingency plans developed pursuant to rule 3608.
 - (IV) An updated assessment of need for additional resources developed pursuant to rule 3609.
 - (V) An updated report of the utility's plan to meet the resource need developed pursuant to rule 3610 and the resources the utility has acquired to date in implementation of the plan.
 - (VI) In addition to the items required in subsections(a)(I) through (a)(V), a cooperative electric generation and transmission association shall include in its annual report a full explanation of how its future resource acquisition plans will give fullest possible consideration to the cost-

effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.

(b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:

(I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: (1) the number of bids received, (2) the quantity of MW offered by bidders, (3) a breakdown of the number of bids and MW received by resource type, and (4) a description of the prices of the resources offered.

(II) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file, within 30 days after bids are received, an application for approval of a contingency plan. The application shall include the information required by rules 3002(b) and 3002(c), the justification for need of the contingency plan, the proposed action by the utility, the expected costs, and the expected timeframe for implementation.

(III) Within 45 days after the utility has selected the winning bidders, the utility shall report: (1) the number of winning bids; (2) the quantity of MW offered by the winning bidders; (3) a breakdown of the number and MW of winning bids by resource type, name, and location; and (4) a description of the prices of the winning bids.

3615. Amendment of an Approved plan.

The utility may file, at any time, an application to amend the contents of a plan approved pursuant to rule 3613. Such an application shall meet the requirements of rules 3002(b) and 3002(c), shall identify each proposed amendment, shall state the reason for each proposed amendment, and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure.

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APPEALS OF LOCAL GOVERNMENT LAND USE DECISIONS

3700. Scope and Applicability.

Rules 3700 through 3707 apply to all utilities or power authorities which seek to appeal a local government action concerning a major electrical facility.

3701. Definitions.

The following definitions apply to rules 3700 - 3707, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Local Government" means a county, a home rule or statutory city, town, a territorial charter city, a or city and county.
- (b) "Local government action" means (1) 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 a major electrical facility or (2) a decision which imposes 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.
- (c) "Local land use decision" means the decision of a local government within its jurisdiction to plan for and regulate the use of land.
- (d) "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.
- (e) "Power authority" means an authority created pursuant to § 29-1-204, C.R.S.

3702. Precondition to Application.

In order for a utility or power authority to appeal a local government action to the Commission pursuant to this rule and pursuant to § 29-20-108, 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.
- (c) The Commission has previously entered an order pursuant to § 40-4-102, C.R.S., that conflicts with the local government action.

3703. Applications.

- (a) To commence an appeal of a local government land use decision, a utility or power authority shall file with the Commission an application pursuant to this rule.
- (b) An application filed in accordance with §§ 29-20-108, C.R.S., and this rule shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All of information required in rules 3002(b) and 3002(c).
 - (II) A showing that one of the preconditions set out in rule 3702 has been met.
 - (III) Identification of the major electrical facility.
 - (IV) Identification of the local government action and its impact on the major electrical facility.
 - (V) A statement of the reasons the applying utility or power authority believes that the local government action would unreasonably impair its ability to provide safe, reliable, and economical service to the public.
 - (VI) The demonstrated need for the major electrical facility or reference to the application made to the Commission with respect to the major electrical facility and the resulting decision of the Commission regarding such facility.
 - (VII) The extent to which the proposed facility is inconsistent with existing applicable local or regional land use ordinances, resolutions, or master or comprehensive plans.

- (VIII) Whether the proposed facility would exacerbate a natural hazard.
- (IX) Applicable utility engineering standards, including supply adequacy, system reliability, and public safety standards.
- (X) The relative merit, as determined through use of the normal system planning evaluation techniques of the utility or power authority, of any reasonably available and economically feasible alternatives proposed by the utility, the power authority, or the local government.
- (XI) 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.
- (XII) The basis for the local government action. If available, the utility or power authority shall attach a copy of the local government action.
- (XIII) 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. If the residents have already paid to place facilities underground, the Commission will give strong consideration to that fact.
- (XIV) Information concerning how the proposed major electrical facility will affect the safety of residents within and without the boundaries of the jurisdiction of the local government.
- (XV) An attestation that the utility or power authority will, upon filing the application with the Commission, simultaneously send a copy of the application to the local government body which took the local government action which is the subject of the appeal.

3704. Public Hearing.

Pursuant to § 29-20-108(5)(b), C.R.S., and in addition to the formal evidentiary hearing on the appeal, the Commission shall take statements from the public concerning the appealed local government action at a public hearing held at a location specified by the local government.

3705. Prehearing Conference, Parties, and Public Notice.

- (a) In order to assist the parties in scheduling the public hearing, determining the scheduling of the evidentiary hearing, developing the list of persons to receive notice of these hearings, and

addressing other pertinent issues, the Commission will hold a prehearing conference.

- (b) The Commission shall conduct a prehearing conference within 15 days after the application is deemed complete by the Commission.
- (c) The Commission shall join as an indispensable party the local government which took the contested local government action.
- (d) Ten days before the commencement of the prehearing conference, the local government shall submit to the parties and the Commission its preference for the location of the public hearing to be held in accordance with § 29-20-108(5)(b), C.R.S., and rule 3704.
- (e) The Commission will decide the date and time of the public hearing after receiving comments from the parties at the prehearing conference.
- (f) By the date of the prehearing conference, each party shall provide to the utility or power authority a list of individuals and groups to receive notice of the public hearing.
- (g) The utility or power authority shall give notice of the public hearing to the identified 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 public hearing, and space needs to be acquired, then the utility or power authority shall bear any cost associated with the rental of such space for the public hearing.
- (i) The parties are encouraged to confer prior to the prehearing conference to develop a schedule for the filing of testimony and the dates for the formal evidentiary hearing.

3706. Denial of Appeal.

In accordance with § 29-20-108(5)(e), C.R.S., the Commission shall deny an appeal of a local government action if the utility or power authority has failed to comply 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 major electrical 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 to file annually with the Commission to notify the Commission of the proposed construction of a new major electrical facility or the extension of an existing facility, the utility or power authority shall notify any affected local government of its intention to site a major electrical facility within the jurisdiction of the local government when such utility or power authority determines that it intends to proceed to permit and to 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 to 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 shall explain why no reasonable alternatives are available.

3707. Procedural Rules.

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

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SMALL POWER PRODUCERS AND COGENERATORS

3900. Scope and Applicability.

Rules 3900 through 3954 apply to utilities which purchase power from small power producers and cogenerators. These rules also apply to small power producers and cogenerators which sell power to utilities.

3901. Definitions.

The following definitions apply to rules 3900 through 3954, except where a specific rule or statute provides otherwise. In addition to the definitions stated here, the definitions found in the Public Utilities Law, in the Public Utility Regulatory Policies Act of 1978, and in the federal regulations which are incorporated by reference apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Avoided cost" means the incremental or marginal cost to an electrical utility of electrical energy or capacity, or both, which, but for the purchase of such energy and/or capacity from

qualifying facility or qualifying facilities, the utility would generate itself or would purchase from another source.

- (b) "Qualifying facility" means any small power production facility or cogeneration facility which is a qualifying facility under federal law.
- (c) "Rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale or purchase of electrical energy or capacity; any rule or practice respecting any such rate, charge, or classification; and any contract pertaining to the sale or purchase of electrical energy or capacity.

3902. Avoided Costs.

- (a) Each utility shall pay qualifying facilities a rate for energy and capacity purchases based on the utility's avoided costs.
- (b) Each electric utility shall file tariffs setting forth standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less.
- (c) A utility shall use a bid or an auction or a combination procedure to establish its avoided costs.
- (d) If a utility can demonstrate to the Commission that a qualifying facility should receive a different rate from that established by these rules, the Commission may authorize such. The burden of establishing such different rate shall be on the utility, and the rate shall be based on the utility's system wide costing principles and other appropriate load and cost data.
- (e) Nothing in this rule requires a utility to pay more than its avoided costs of energy and capacity, of energy, or of capacity for purchases from qualifying facilities.

3903. Payment of Interconnection Costs.

- (a) Each qualifying facility shall pay the cost of interconnecting with an electric utility for purchases and sales of capacity and energy. To the extent that interconnection costs can be determined in advance of interconnection, each electric utility shall establish the cost of interconnection for purchases of energy and capacity. The interconnection costs shall be fair, reasonable, and nondiscriminatory to each qualifying facility.
- (b) The utility and qualifying facility may agree to an installment payment arrangement for interconnection costs.

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3910. Standards for Operating Reliability and Safety.

Rules 3910 through 3929 establish standards, as authorized by 18 C.F.R. § 292.308, to ensure the safe and reliable interconnected operations of qualifying facilities with utilities regulated by the Commission.

3911. Responsibility of a Utility to Provide Quality Service.

- (a) A utility shall provide substantially the same quality of service to its customers and to the qualifying facility after interconnection of the qualifying facility as the utility provided prior to interconnection of the qualifying facility. The interconnection of the qualifying facility to the utility shall not degrade the utility's quality of service to its other customers. The qualifying facility shall pay for the interconnection facilities necessary to preserve the utility's quality of service to its other customers.
- (b) At the request of a qualifying facility or a utility prior to interconnection, a utility may evaluate the quality of service to be provided to the qualifying facility. The cost of conducting an evaluation shall be included as an interconnection cost of a qualifying facility. The evaluation may be used for the following purposes:
 - (I) To estimate the effects of interconnection on the quality of service to be provided.
 - (II) To establish the quality of service that a utility shall provide to a qualifying facility after interconnection.
- (c) If the qualifying facility desires a superior quality of service to that established by an evaluation performed pursuant to section (b) of this rule, any increased cost shall be an interconnection cost of the qualifying facility.

3912. Submission of Design Information by a Qualifying Facility.

- (a) Any person seeking to establish interconnected operations as a qualifying facility shall provide to the utility with which it proposes to interconnect 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) Within 25 days after the receipt of design information, or such longer period as agreed by them, a utility shall notify a qualifying facility 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.

3913. Conferences between a Utility and a Qualifying Facility.

- (a) No later than 30 days after a qualifying facility has provided design information 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 (such as, without limitation, electrical codes, construction codes, sizing criteria, setback distances, physical clearances, protective devices, inspections, and grounding practices) regulating interconnection.
- (c) At the conference, the utility shall inform the qualifying facility of these rules and of the system operation requirements and the safety standards and procedures (such as, without limitation, harmonic content for output voltage levels, recommended use of induction generators, line-commutated inverters, and reliable disconnection equipment) required for interconnection.

3914. Establishment of Requirements for a Qualifying Facility.

- (a) Within 25 days after submission of complete design information by a qualifying facility, a utility shall:
 - (I) Establish written operations requirements for the qualifying facility so that interconnection with the qualifying facility will not cause abnormal operation of the utility's protective equipment.
 - (II) Inform the qualifying facility of the existing phase conductors and electrical phase sequence/rotation available to the qualifying facility and 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.
- (b) 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.

3915. Compliance with Requirements and Rule Standards.

- (a) No utility shall interconnect with a qualifying facility until the qualifying facility has established, to the satisfaction of the utility, that it has complied with the utility's requirements for interconnected operations and the standards established in rules 3910 to 3929.
- (b) When a qualifying facility determines that it has complied with all of the requirements of a utility and the standards established in these rules for interconnected operations, the qualifying facility shall give written notice of that fact to the utility. Within 25 days after receipt of that notice, the utility and the qualifying facility shall arrange for an onsite inspection of the qualifying facility. The utility shall inspect the facilities related to the qualifying facility's interconnection with the utility. The qualifying facility shall provide the personnel necessary to operate the facility in order to demonstrate to the utility the proper operation of the qualifying facility's equipment.
 - (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 established in 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 established in 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 written notice to the utility; and the parties shall proceed as provided in section (b) of this rule.
- (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 in writing 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 and within five business days. When the qualifying facility has corrected the deficiencies, the parties shall schedule a new start-up test; and the parties shall proceed as provided in section (c) of this rule.

- (d) In the event of a disagreement between a qualifying facility and a utility regarding (1) compliance by the qualifying facility with the utility's requirements or with the standards established in these rules or (2) 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.

3916. Code Certification by a Qualifying Facility.

- (a) A qualifying facility shall provide a utility with certification that it has complied with all applicable governmental codes (such as, without limitation, electrical codes, construction codes, sizing criteria, set-back distances, physical clearances, protective devices, inspections, and grounding practices).
- (b) A qualifying facility shall obtain all necessary certifications at its own cost.

3917. Limits of Magnitude of a Qualifying Facility.

- (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) Within six months after the effective date of these rules, a utility shall develop and file with the Commission the practical upper limits and aggregate effects of interconnection established by the utility, unless those limits and effects have been 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 are available, a utility shall use the specific data to establish 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 of proof shall be on the utility.

3918. Utility Access to Premises of a Qualifying Facility.

- (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 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, to maintain, or to retrieve any of the utility's equipment affected by a failure of the utility's or qualifying facility's equipment.
- (c) A utility shall have access to a qualifying facility to conduct an inspection for the purpose stated in rule 3921(d).
- (d) A utility shall have access to a qualifying facility to conduct an inspection pursuant to the procedures established pursuant to rule 3927(b).
- (e) A utility shall have access to a qualifying facility to conduct an inspection pursuant to rule 3927(d).
- (f) A utility shall have access to a qualifying facility to conduct an inspection pursuant to rule 3927(e).

3919. Coordination of Circuit Protection Equipment.

- (a) Prior to interconnection and at the earliest time possible after a qualifying facility provides its complete design information, but in no event later than 25 days after submission of complete design information, a utility shall provide a written statement to the qualifying facility as to whether the utility's 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 utility's circuit protection equipment, 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 shall decline to interconnect until either the design has been modified to eliminate the problems or 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. The qualifying facility shall provide this information at the time it submits its design information to the utility.

3920. Installation of Protective Equipment by a Qualifying Facility to Accommodate Protection Equipment of a Utility.

- (a) Within 25 days after a qualifying facility submits its complete design information, a utility shall notify the qualifying facility of any 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 and the operations of the utility which necessitate protection.
- (c) The qualifying facility shall be responsible for installing protective equipment to accommodate the utility's system protection equipment. The cost of this installation shall be an interconnection cost of the qualifying facility.
- (d) A utility shall not be responsible for the effects on a qualifying facility's equipment and systems that are caused by the utility's system or equipment.

3921. 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.
- (b) A qualifying facility shall ground all equipment to meet governmental codes and the utility's requirements.
- (c) A utility shall advise, in writing, a qualifying facility of its grounding requirements and applicable governmental codes within 25 days after the qualifying facility submits its complete design information.
- (d) If the grounding of a qualifying facility's equipment degrades safety, necessitating improvements or modifications of the

interconnection, the utility shall have the right to approve the improvements or modifications made to the interconnection to assure that they are sufficient to address the safety issue caused by the degradation. The qualifying facility shall bear the responsibility for and the cost of such improvements or modifications.

- (e) 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, the qualifying facility shall make the necessary grounding modifications to remove such interference. The cost of such modifications shall be an interconnection cost of the qualifying facility.
- (f) No qualifying facility shall commence interconnected operations until it obtains written certification that it has complied with all applicable governmental codes and until the utility approves the grounding of the qualifying facility's equipment.

3922. Standards for Harmonics and Frequency.

- (a) For smaller qualifying facilities connected to its distribution system, a utility shall establish standards for the harmonic content of power and energy generated by qualifying facilities. Such standards shall be no 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 utility's established standards for harmonic content.
- (c) A utility shall not be responsible for onsite interference caused by harmonics, failure of motors, interference with telephone service or television or radio reception, and other manifestations of degraded quality of service which are caused by the failure of a qualifying facility to produce power and energy at 60 HZ.
- (d) A qualifying facility shall not operate its generators in such a fashion as to impact negatively the utility's or the utility's customers' voltage range or other voltage characteristics. The qualifying facility shall have adequate voltage regulation and related protective and control equipment as required by the utility.
- (e) A qualifying facility shall operate within the utility's power factor and voltage characteristic requirements.

3923. 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.

3924. 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 or prohibit 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. The qualifying facility shall be responsible for installing, at its expense, the equipment necessary to maintain power factor requirements.
- (c) If a qualifying facility's abnormal power factor causes deleterious effects on a utility's system, the utility shall correct the deleterious effects on its system 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.

3925. 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 the qualifying facility's generating equipment, a power line outage, or a nearby system fault.
 - (I) The protective equipment, or separate equipment, shall have the ability to isolate the energy generated or supplied by a utility or by a qualifying facility. The equipment shall be accessible to and by the utility and the qualifying facility.
 - (II) A utility shall have the right to operate the 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 the 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. This 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 demonstrate the proper functioning and operation of its protective equipment to the satisfaction of the utility.
- (c) A qualifying facility shall install overcurrent 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) Prior to making significant modifications to its equipment, a qualifying facility shall notify a utility with which the QF is interconnected of the proposed modifications. If a qualifying facility plans to make significant modifications to its equipment, or if future difficulties arise on the systems of the qualifying facility or the 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.

3926. Meters.

- (a) A utility shall supply (at cost), own, 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 metering equipment.
- (c) The cost of meters, their installation, and their maintenance shall be an interconnection cost of the qualifying facility.

3927. Maintenance and Inspection of a Qualifying Facility.

- (a) Prior to interconnection, a qualifying facility shall establish a planned maintenance schedule 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.
- (e) A utility may inspect the qualifying facility and its records, 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 have the right to witness inspections. For inspections to determine safety or the reselling of the utility's energy or capacity to the utility, the utility shall inform the qualifying facility that it intends to inspect the facility. If the qualifying facility declines, the inspection shall be conducted without the presence of qualifying facility personnel.

3928. Disconnection of a Qualifying Facility.

- (a) If a utility determines that a qualifying facility has not complied with its maintenance schedule, that a qualifying facility's protective equipment is not operating properly, or that a qualifying facility 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. To avoid disconnection, the qualifying facility shall comply with all requirements prior to the date of the proposed disconnection. The qualifying facility shall notify the utility when it has complied, at which time the utility shall re-inspect the qualifying 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. If the qualifying facility has been disconnected for reselling the utility's energy and/or capacity to the utility, the agreement shall be conditioned on the qualifying facility's paying the utility for the resold energy and/or capacity.

3929. Qualifying Facility to File Generation Schedule.

A qualifying facility 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 to coordinate regular operations for the safety of maintenance personnel.

3930. - 3949. [Reserved].

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3950. 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) Absent a written agreement to the contrary, a utility and a qualifying facility shall hold each other harmless from liability for all damages caused to the facilities of the other party by

reason of the improper or faulty operation of, or non-operation of, their facilities.

- (d) A qualifying facility shall obtain liability insurance in an amount the utility determines to be 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. A utility may waive the right to be named as an additional insured.

3951. Discontinuance of Sales or Purchases During System Emergencies, and Notice.

- (a) A qualifying facility shall provide energy or capacity to a utility during a system emergency on the utility's system to the extent required by 18 C.F.R. § 292.307.
- (b) Unless waived by the utility, a qualifying facility which discontinues sales to or purchases from a utility due to a system emergency:
 - (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, the duration of the emergency, and the reasons for the discontinuance.
- (c) During a system emergency, a utility may discontinue purchases from a qualifying facility as provided in 18 C.F.R. § 292.307. Unless waived by the qualifying facility, a utility which discontinues purchases from or sales to a qualifying facility due to a system emergency:
 - (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, the duration of the system emergency, and the reasons for the discontinuance.

(d) As used in this rule, "system emergency" means a condition on a utility's system that is likely to result in imminent and significant disruption of service to customers or that is likely imminently to endanger life or property.

3952. Other Discontinuances.

Prior to any type of temporary discontinuance of purchases or sales other than one due to a system emergency, the utility or the qualifying facility shall notify the other party as provided in rule 3951, except that this notification shall not be required if the parties previously have agreed upon the discontinuance or if the discontinuance is less than 15 minutes in duration.

3953. Exemption of Qualifying Facilities From Certain Colorado Laws and Regulations.

(a) A qualifying facility shall be exempt from Colorado law and regulations as provided in 18 C.F.R. § 292.602(c), except that a qualifying facility shall not be exempt from rules 3900 through 3954.

(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 the Public Utility Regulatory Policies Act of 1978.

3954. Reporting Requirements for Utilities.

(a) Each utility shall file a written report with the Commission within 30 days after the last business day of March, June, September and December of each year, which report shall contain the information required by this rule for each qualifying facility, by class (such as, without limitation, co-generation, hydro, wind, solar, and biomass/waste). For purposes of this rule, a "qualifying facility under active discussion or negotiations" means a qualifying facility which has either provided preliminary engineering design data to the utility or commenced contract negotiations with the utility.

(b) The report shall contain the following specific information as to each qualifying facility and as to each qualifying facility under active discussion or negotiations:

(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, without limitation, wind turbine, hydro, combustion turbine, and topping or bottoming cycle).
 - (V) The fuel source and type of fuel used or to be used in the qualifying facility.
 - (VI) If the parties are negotiating a contract, the proposed pattern of operation, including the size of the qualifying facility by capacity (KW) and by energy (KWh), for each season.
 - (VII) If the qualifying facility is in commercial operation, 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.
 - (IX) The status of FERC certification or de-certification of a qualifying facility under contract or active discussion or negotiations.
- (c) If a qualifying facility of two MW or more comes under active discussion or negotiations, the utility, within seven days, shall inform the Commission by letter of the information required by section (b) of this rule.
 - (d) 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.
 - (e) If a utility changes a fee required to be reported pursuant to section (d) of this rule, the utility, in writing, shall inform the Commission of the amount of the new fee within ten days after the change.
 - (f) 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 which is regulated under Article 9.5 of Title 40, C.R.S.

GLOSSARY OF ACRONYMS

CAAM -	Cost Allocation and Assignment Manual
CCR -	Colorado Code of Regulations
C.F.R. -	Code of Federal Regulations
CPCN -	Certificate of Public Convenience and Necessity
CRCP -	Colorado Rules of Civil Procedure
C.R.S. -	Colorado Revised Statutes
EAO -	Energy Assistance Organization
e-mail -	Electronic mail
FERC -	Federal Energy Regulatory Commission
FDC -	Fully Distributed Cost
GAAP -	Generally Accepted Accounting Principles
HZ -	Hertz (cycles per second)
IEEE -	the Institute of Electrical and Electronics Engineers
IPP -	Independent Power Producer
KW -	KiloWatt (1 KW = 1,000 Watts)
KWh -	Kilowatt-hour
MMO -	Master Meter Operator
MW -	MegaWatt (1 MW = 1,000 KiloWatts)
MWH -	MegaWatt-hour
OCC -	Colorado Office of Consumer Counsel
RUS -	Rural Utilities Service of the United States Department of Agriculture
USOA -	Uniform System of Accounts