

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-4

PART 4

RULES REGULATING GAS UTILITIES AND PIPELINE OPERATORS

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to set forth rules describing the service to be provided by jurisdictional gas utilities and master meter operators to their customers and describing the manner of regulation over jurisdictional gas utilities, master meter operators, and the services they provide. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, transportation service, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, cost allocation between regulated and unregulated operations, recovery of gas costs, 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, 40-2-115, 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-3-101, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-7-117, [40-7-113.5\(2\)\(a\)](#), and 40-8.7-105(5), C.R.S.

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[indicates omission of unaffected rules]

[new rule follows]

CIVIL PENALTIES

4009. Definitions.

The following definitions apply to rules 4009, 4010, and 4976, 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) "Civil penalty" means any monetary penalty levied against a public utility because of violations of statutes, regulations, rules, or Commission decisions.
- (b) "Civil penalty assessment" means the act of imposing a civil penalty against a public utility.
- (c) "Civil penalty assessment notice" means the written document by which a public utility is notified of a violation and proposed civil penalty.
- (d) "Public utility" means those public utilities defined in § 40-7-113.5-(1)(a), C.R.S.

4010. Regulated Gas Utility Violations, Civil Enforcement, and Enhancement of Civil Penalties.

- (a) The Commission may impose a civil penalty in accordance with the requirements and contents contained in § 40-7-113.5, C.R.S., § 40-7-116.5, C.R.S., and paragraph 1302(b), 4 Code of Colorado Regulations 723-1, for finable offenses as specified in these rules.
- (b) Notwithstanding any provision in these rules to the contrary, the Commission may assess doubled or tripled civil penalties against any public utility, as provided by statute and this rule.
- (c) The Commission may assess any public utility a civil penalty containing doubled penalties if:
- (I) the public utility engaged in prior conduct that resulted in the issuance of a prior civil penalty assessment notice;
 - (II) the conduct for which doubled civil penalties are sought violates the same statute, rule, or order as conduct that was cited in a prior civil penalty assessment notice;
 - (III) the conduct for which doubled civil penalties are sought occurred within one year after conduct that resulted in the issuance of a civil penalty assessment notice;
 - (IV) the conduct for which doubled civil penalties are sought occurred after the public utility's receipt of a prior civil penalty assessment notice; and
 - (V) a prior civil penalty assessment notice resulted in the public utility's admission to the prior conduct or in a finding of liability related to the prior conduct.
- (d) The Commission may assess any public utility a civil penalty containing tripled penalties if:
- (I) the public utility engaged in prior conduct that resulted in the issuance of two or more prior civil penalty assessment notices;
 - (II) the conduct for which tripled civil penalties are sought violates the same statute, rule, or order as conduct that was cited in prior civil penalty assessment notices;
 - (III) the conduct for which tripled civil penalties are sought occurred within one year after the two most recent prior instances of conduct cited in prior civil penalty assessment notices;
 - (IV) the conduct for which tripled civil penalties are sought occurred after the public utility's receipt of two or more prior civil penalty assessment notices; and
 - (V) the prior civil penalty assessment notices resulted in the public utility's admission to at least two instances of the prior conduct or in a finding of liability related to at least two instances of the prior conduct.
- (e) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the conduct for which tripled civil penalties are sought.
- (f) Nothing in this rule shall preclude the assessment of tripled penalties when doubled and tripled penalties are sought on the same civil penalty assessment notice.
- (g) The Commission shall not issue a decision on doubled or tripled penalties until after the effective date of the Commission decision upon which the single penalty was based.

- (h) If the respondent pays the doubled or tripled civil penalties prior to the effective date of the Commission decision upon which the doubled or tripled civil penalties are based, and such Commission decision finds the respondent not liable for the violation(s), on its own motion the Commission shall refund the appropriate amount of any overpayment. By way of example, if the respondent pays a doubled civil penalty and is later found to be not liable for the first violation upon which the doubled penalty is based, the Commission shall retain one half of the doubled civil penalty amount and refund the other half to the respondent. Likewise, for payment of the reduced amount provided in paragraph (i) of this rule, the Commission shall make an appropriate proportional refund.
- (i) The civil penalty assessment notice shall contain the maximum penalty amount provided by rule for each individual violation noted, with a separate provision for a reduced penalty of 50 percent of the maximum penalty amount if paid within ten days of receipt of the civil penalty assessment notice.
- (j) The civil penalty assessment notice shall contain the maximum penalty amount provided by the rule for each individual violation noted, and the amount of the penalty surcharge pursuant to § 24-34-108(2), C.R.S.
- (k) A penalty surcharge referred to in paragraph (j) of this rule shall equal to the percentage set by the Department of Regulatory Agencies on an annual basis. The surcharge shall not be included in the calculation of the statutory limits set in § 40-7-113.5(5), C.R.S.
- (l) Nothing in these rules shall affect the Commission's ability to pursue other remedies in lieu of issuing civil penalties.

400911. – 4099. [Reserved].

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[indicates omission of unaffected rules]

[new rule follows]

4976. Regulated Gas Utility Rule Violations, Civil Enforcement, and Civil Penalties.

A violation of the following rules may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limit set in § 40-7-113.5, C.R.S.

<u>Citation</u>	<u>Failure to Comply with Commission Rules Regarding:</u>
	<u>Failure to follow a Commission Decision</u>
<u>Rule 1301(c) and 4004</u>	<u>Disputes and Informal Complaints</u>
<u>Rule 4005</u>	<u>Records and Record Retention</u>

Rule 4005(c)	Uniform System of Accounts
Rule 4006	Annual Reporting Requirements
Rule 4100	Obtaining a Certificate of Public Convenience and Necessity for a Franchise
Rule 4101	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to Operate in a Service Territory
Rule 4102	Obtaining a Certificate of Public Convenience and Necessity for Facilities
Rule 4103	Amending a Certificate of Public Necessity for changes in Service Territory or Facilities
Rule 4108	Keeping a Current Tariff on File with the Commission
Rule 4109	Filing a New or Changed Tariff with the Commission
Rule 4110	Filing an Advice Letter to Implement a Tariff Change
Rule 4200	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards
Rule 4202	Maintaining Heating Value, Purity and Pressure Standards
Rule 4203	Trouble Report Response, Interruptions and Curtailments of Service
Rule 4204	Reporting Incidents Resulting in Death, Serious Injury, or Significant Property Damage
Rule 4208	Anticompetitive Conduct and Unacceptable Practices
Rule 4210	Line Extensions
Rule 4303	Meter Testing
Rule 4304	Meter Testing Upon Request
Rule 4306	Record Retention of Tests and Meters
Rule 4309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read
Rule 4401	Billing Information, Procedures, and Requirements
Rule 4402	Meter and Billing Error Adjustments
Rule 4403	Applications for Service, Customer Deposits, and Third Party Guarantees
Rule 4404	Availability of Installation Payments to Customers

Rule 4405	Provision of Service, Rate, and Usage Information to Customers
Rule 4406	Provision of Gas Cost Component Information to Customers
Rule 4407	Discontinuance of Service
Rule 4408	Notice of Discontinuation of Service
Rule 4409	Restoration of Service
Rule 4411	Low-Income Energy Assistance Act
Rule 4603	Gas Cost Adjustments
Rule 4605	Gas Purchase Plans
Rule 4607	Gas Purchase Reports and Prudence Reviews
Rule 4754	Annual DSM Report and Application for Bonus and Bonus Calculation
Rule 4803	Master Meter Exemption Requirements

[4977](#)– 4999. [Reserved].

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[indicates omission of unaffected rules]