

STATE OF COLORADO  
PUBLIC UTILITIES COMMISSION

2010 DEC -3 PM 3:58



P.O. Box 840  
Denver, Colorado 80201-0840

December 3, 2010

Advice No. 790 - Gas

Public Utilities Commission  
of the State of Colorado  
1560 Broadway, Suite 250  
Denver, Colorado 80202

The accompanying tariff sheets issued by Public Service Company of Colorado are sent to you for filing in accordance with the requirements of the Public Utilities Law:

COLORADO P.U.C. NO. 6 - GAS

and the following sheets are attached:

<u>Colorado P.U.C. Sheet No.</u>		<u>Title of Sheet</u>	<u>Cancels</u>	<u>Colorado P.U.C. Sheet No.</u>
Seventh Revised	R1	Rules and Regulations Index	Sub. Sixth Revised	R1
Fourth Revised	R1A	Rules and Regulations Index	Sub. Third Revised	R1A
Second Revised	R13	Rules and Regulations	First Revised	R13
Second Revised	R14	Rules and Regulations	First Revised	R14
Second Revised	R15	Rules and Regulations	First Revised	R15
Fourth Revised	R16	Rules and Regulations	Sub. Third Revised	R16
Fourth Revised	R17	Rules and Regulations	Sub. Third Revised	R17
Fourth Revised	R18	Rules and Regulations	Sub. Third Revised	R18
Third Revised	R19	Rules and Regulations	Second Revised	R19
Fourth Revised	R20	Rules and Regulations	Third Revised	R20

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Fourth Revised	R21	Rules and Regulations	Sub. Third Revised	R21
Fifth Revised	R22	Rules and Regulations	Fourth Revised	R22
Fourth Revised	R23	Rules and Regulations	Third Revised	R23
Third Revised	R24	Rules and Regulations	Second Revised	R24
Third Revised	R25	Rules and Regulations	Second Revised	R25
Third Revised	R26	Rules and Regulations	Second Revised	R26
Fourth Revised	R27	Rules and Regulations	Third Revised	R27
Fourth Revised	R28	Rules and Regulations	Third Revised	R28
Fifth Revised	R29	Rules and Regulations	Fourth Revised	R29
Third Revised	R30	Rules and Regulations	Sub. Second Revised	R30
Third Revised	R31	Rules and Regulations	Sub. Second Revised	R31
Third Revised	R32	Rules and Regulations	Sub. Second Revised	R32
Third Revised	R33	Rules and Regulations	Sub. Second Revised	R33
Fourth Revised	R34	Rules and Regulations	4 <sup>th</sup> Sub. Third Revised	R34
Third Revised	R35	Rules and Regulations	Sub. Second Revised	R35
3 <sup>rd</sup> Sub. Third Revised	R36	Rules and Regulations	Sub. Second Revised	R36
2 <sup>nd</sup> Sub. Third Revised	R37	Rules and Regulations	Sub. Second Revised	R37
Fourth Revised	R38	Rules and Regulations	3 <sup>rd</sup> Sub. Third Revised	R38
Fourth Revised	R39	Rules and Regulations	3 <sup>rd</sup> Sub. Third Revised	R39
Fourth Revised	R40	Rules and Regulations	Sub. Third Revised	R40
Sixth Revised	R41	Rules and Regulations	Sub. Fifth Revised	R41
Fourth Revised	R42	Rules and Regulations	Sub. Third Revised	R42
Fifth Revised	R43	Rules and Regulations	Sub. Fourth Revised	R43

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Fourth Revised	R44	Rules and Regulations	Sub. Third Revised	R44
Seventh Revised	R45	Rules and Regulations	Sixth Revised	R45
Fourth Revised	R46	Rules and Regulations	Sub. Third Revised	R46
Fourth Revised	R47	Rules and Regulations	Sub. Third Revised	R47
Fourth Revised	R48	Rules and Regulations	Sub. Third Revised	R48
Fourth Revised	R49	Rules and Regulations	Sub. Third Revised	R49
Second Revised	R50	Rules and Regulations	First Revised	R50
Second Revised	R51	Rules and Regulations	First Revised	R51
Second Revised	R52	Rules and Regulations	First Revised	R52
Second Revised	R53	Rules and Regulations	First Revised	R53
Original	R54	Rules and Regulations	---	
Original	R55	Rules and Regulations	---	
Original	R56	Rules and Regulations	---	
Original	R57	Rules and Regulations	---	
Original	R58	Rules and Regulations	---	
Original	R59	Rules and Regulations	---	
Original	R60	Rules and Regulations	---	
Original	R61	Rules and Regulations	---	
Original	R62	Rules and Regulations	---	
Original	R63	Rules and Regulations	---	

The principal proposed change is: to revise the Rules and Regulations section to incorporate a new Environmental Matters section in the Company's Colorado P.U.C. No. 6 Gas tariff to be effective January 3, 2011. The purpose of the proposed change is to afford the Company and its ratepayers additional protection from incurring liability and

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injury on account of pre-existing contamination on customer-owned property or other property to which an applicant or customer asks the Company to extend service.

The Company first proposed to add an Environment Matters section to its electric tariffs in its last electric rate case, Docket No. 09AL-299E. A number of parties in that proceeding opposed the Company's proposal and the Commission rejected it in Decision No. C10-0286 issued on March 29, 2010. However, in that decision the Commission also included guidance to the Company regarding recommended modifications to its proposal in the event the Company decided to re-file the tariff for the Commission's consideration. Since that time, the Company has worked with a number of the Intervenors who opposed the Company's original Environmental Matters proposal and has made substantial modification to the tariff as originally proposed to address the Commission's and the Intervenors' concerns. The Company believes that the revised Environmental Matters tariff that it is filing with this Advice Letter responds to all of the reasonable concerns that were raised by the Intervenors in Docket No. 09AL-299E and comports fully with the guidance provided by the Commission in Decision No. C10-0286. The Company has been authorized to represent that the proposed Environmental Matters tariff that it is filing with this Advice letter includes satisfactory compromise language reached as a result of negotiations with the following parties who were Intervenors in Docket No. 09AL-299E: NAIOP, Commercial Real Estate Development Association, Colorado Chapter; Colorado Association of Home Builders; Denver Metro Building Owners and Managers Association; Fitzsimons Redevelopment Authority; Forest City Stapleton, Inc.; Fitzsimons Developer LLC; and LUI Denver Broadway, LLC; LUI Denver Broadway Office, LLC. The proposed tariffs represent an acceptable compromise from the perspective of the identified parties.

The proposed environmental tariff includes the following key terms and provisions as contrasted to the tariff provisions as filed in 09AL-299E:

The definition of Hazardous Materials includes an exclusion for *de minimis* materials, i.e., materials that "are present in a form, location, or concentration that do not trigger worker protection, cleanup, or solid waste, radioactive materials or waste, or hazardous waste management or disposal requirements under Environmental Laws or, if disturbed, may not otherwise pose an imminent and substantial risk to human health or the environment";

Offsite properties, as was proposed in Docket No. 09AL-299E, are not included in the new tariff;

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The definitions of Property and Customer Controlled Property have been modified to narrow the applicability of the new tariff from what was proposed in Docket No. 09AL-299E. Property is limited to property the customer actually owns and key obligations are tied to a defined "Work Area." Customer Controlled Property is now limited to property that the customer does not own, but to which the customer or applicant has requested the Company provide utility service;

A new paragraph regarding governmental entities has been added to address such entities' concerns, including such items as clarifying (a) the relationship with the new tariff and existing franchise agreements, (b) that the decision of whether an environmental agreement will be executed is made on case-by-case basis (not as a matter of right when contamination is known, encountered, or reasonably suspected to exist on site) and (c) that the terms of any environmental agreement will be negotiated (including whether an indemnity or financial assurances are necessary) on a case-by-case basis;

If requested by the Company, Customers must disclose any known site contamination that could impact the area where the Company will perform work;

All Customers agree to release the Company and Company Parties as defined in the tariff from liability (meaning the Customer cannot sue the Company) arising out of pre-existing site contamination on Property and Customer Controlled Property (except to the extent the Company is negligent, engages in willful misconduct, or brings hazardous materials onto the site);

Customers (other than residential and governmental customers) agree to indemnify (i.e., reimburse) the Company for liabilities (i.e., claims for damages from third parties) arising out of pre-existing site contamination on their Property (except to the extent the Company is negligent, engages in willful misconduct, or brings hazardous materials onto the customer owned or controlled property);

The Company, under specified, limited and objective circumstances, may ask non-residential customers to perform the trenching/backfill work if the customer cannot provide a clean corridor for the Company's facilities on Property or controlled property;

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If hazardous materials are encountered, the Company can stop work until these materials are properly managed or an alternate route is identified;

In the limited circumstances where Hazardous Materials are known, encountered, or reasonably suspected to exist, the Company may negotiate and enter into a site specific environmental risk allocation agreement, which is to be negotiated on a case-by-case basis and is not a form agreement, with non-residential customers that may contain financial assurances to support the indemnity and other agreement obligations;

To the extent the customer disagrees with the Company's determination that Hazardous Materials are suspected to be present on the Customer Property or Customer Controlled Property, the Customer need not negotiate and enter into site specific environmental risk allocation agreement if the customer can demonstrate that such Hazardous Materials are not present or are no longer present in the work area before work commences and that Hazardous Materials are not anticipated to potentially migrate into the work area over time based on available information.

Additional specificity is now provided regarding how financial assurances will be negotiated when environmental risk allocation agreements are negotiated with non-governmental entities, and there is now a cap on the maximum amount of financial assurance that will be requested by the Company, in the event an environmental insurance policy is used to provide such assurances.

An alternative dispute resolution provision has been added, such that the Company and Customer can seek to resolve disputes through mediation, if necessary, before seeking ultimate resolution from the Commission or a court of law, if applicable or appropriate; and

There is a provision that provides that if a customer has previously entered into an environmental risk allocation agreement that addresses environmental liabilities and responsibilities as between the customer and Company, the customer may elect to proceed under the pre-existing agreement or to negotiate a new environmental risk allocation agreement with the Company

The proposed environmental tariff is not intended to create any third party beneficiary rights.

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The Company has also filed an Application for Alternative Form of Notice pertaining to this Advice Letter. The Company proposes to provide notice of this filing to all Intervenors in its most recent gas rate case, and as a part of its notice in Advice 1576 - Electric, to all Intervenors in Docket No. 09AL-299E, the Company's most recent electric rate case where its original Environmental Matters tariff was at issue. The Company also proposes to notify customers of this filing by publishing legal notice in The Denver Post for two consecutive Sundays and by publishing legal notice in the Pueblo Chieftain and in the Fort Collins Coloradoan. A copy of the official notice is attached.

It is desired that the changed tariff sheets accompanying this Advice Letter become effective on January 3, 2011.

This Advice Letter is being filed contemporaneously with Advice No. 114 - Steam and Advice No. 1576 - Electric, in which the Company is proposing to similarly revise the Rules and Regulations sections and incorporate a new Environmental Matters section in the Company's P.U.C. No. 1 - Steam and P.U.C. No. - 7 Electric Tariffs.

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Please send copies of all notices, pleadings, correspondence, and other documents regarding this filing to:

Scott B. Brockett  
Director, Regulatory Administration  
and Compliance  
Xcel Energy Services Inc.  
1800 Larimer St., Suite 1400  
Denver Colorado 80202  
Phone: 303-294-2164  
Fax: 303-294-2329  
Email: [scott.b.brockett@xcelenergy.com](mailto:scott.b.brockett@xcelenergy.com)

and

Ann E. Hopfenbeck, Esq.  
Ducker, Montgomery, Lewis & Bess, P.C.  
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1800 Larimer, Suite 1100  
Denver, Colorado 80202  
303-294-2059 Phone  
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Manager

TLN:mcs

Enclosures



DATE OF NOTICE: December 3, 2010

**NOTICE OF REVISION TO THE RULES AND REGULATIONS OF THE P.U.C. NO. 6- GAS  
TARIFF OF PUBLIC SERVICE COMPANY OF COLORADO, 1800 LARIMER, SUITE 1400,  
DENVER, COLORADO 80202**

You are hereby notified that Public Service Company of Colorado has filed with the Colorado Public Utilities Commission an Advice Letter for the purpose of revising the Rules and Regulations of its P.U.C. No. 6 – Gas Tariff to incorporate a new Environmental Matters section to the tariff. The purpose of the proposed revision is to afford the Company, including its employees, its contractors and its ratepayers, additional protection from incurring liability and injury on account of pre-existing contamination on customer-owned property or other property to which an applicant or customer asks the Company to extend service.

The proposed environmental tariff includes the following key terms and provisions as contrasted to the tariff provisions as filed in 09AL-299E:

- The definition of “Hazardous Materials” includes an exclusion for *de minimis* materials, i.e., materials that “are present in a form, location, or concentration that do not trigger worker protection, cleanup, or solid waste, radioactive materials or waste, or hazardous waste management or disposal requirements under Environmental Laws or, if disturbed, may not otherwise pose an imminent and substantial risk to human health or the environment”;
- Offsite properties, as was proposed in Docket No. 09AL-299E, are not included in the new tariff;
- The definitions of Property and Customer Controlled Property have been modified to narrow the applicability of the new tariff from what was proposed in Docket No. 09AL-299E. Property is limited to property the customer actually owns and key obligations are tied to a defined “Work Area.” Customer Controlled Property is now limited to property that the customer does not own, but to which the customer or applicant has requested the Company provide utility service;
- A new paragraph regarding governmental entities has been added to address such entities’ concerns, including such items as clarifying (a) the relationship with the new tariff and existing franchise agreements, (b) that the decision of whether an environmental agreement will be executed is made on case-by-case basis (not as a matter of right when contamination is known, encountered, or reasonably suspected to exist on site) and (c) that the terms of any environmental agreement will be negotiated (including whether an indemnity or financial assurances are necessary) on a case-by-case basis;
- If requested by the Company, Customers must disclose any known site contamination that could impact the area where the Company will perform work;
- All Customers agree to release the Company and Company Parties as defined in the tariff from liability (meaning the Customer cannot sue the Company) arising out of pre-existing site contamination on Property and Customer Controlled Property (except to the extent the Company is negligent, engages in willful misconduct, or brings hazardous materials onto the site);
- Customers (other than residential and governmental customers) agree to indemnify (i.e., reimburse) the Company for liabilities (i.e., claims for damages from third parties) arising out of pre-existing site contamination on their Property (except to the extent the Company is

negligent, engages in willful misconduct, or brings hazardous materials onto the customer owned or controlled property);

- The Company, under specified, limited and objective circumstances, may ask non-residential customers to perform the trenching/backfill work if the customer cannot provide a clean corridor for the Company's facilities on Property or controlled property;
- If hazardous materials are encountered, the Company can stop work until these materials are properly managed or an alternate route is identified;
- In the limited circumstances where Hazardous Materials are known, encountered, or reasonably suspected to exist, the Company may negotiate and enter into a site specific environmental risk allocation agreement, which is to be negotiated on a case-by-case basis and is not a form agreement, with non-residential customers that may contain financial assurances to support the indemnity and other agreement obligations;
- To the extent the customer disagrees with the Company's determination that Hazardous Materials are suspected to be present on the Customer Property or Customer Controlled Property, the Customer need not negotiate and enter into site specific environmental risk allocation agreement if the customer can demonstrate that such Hazardous Materials are not present or are no longer present in the work area before work commences and that Hazardous Materials are not anticipated to potentially migrate into the work area over time based on available information.
- Additional specificity is now provided regarding how financial assurances will be negotiated when environmental risk allocation agreements are negotiated with non-governmental entities, and there is now a cap on the maximum amount of financial assurance that will be requested by the Company, in the event an environmental insurance policy is used to provide such assurances.
- An alternative dispute resolution provision has been added, such that the Company and Customer can seek to resolve disputes through mediation, if necessary, before seeking ultimate resolution from the Commission or a court of law, if applicable or appropriate; and
- There is a provision that provides that if a customer has previously entered into an environmental risk allocation agreement that addresses environmental liabilities and responsibilities as between the customer and Company, the customer may elect to proceed under the pre-existing agreement or to negotiate a new environmental risk allocation agreement with the Company

Copies of the proposed and present P.U.C. No. 6 – Gas Tariff sheets summarized above and as filed with the Commission, are available for examination and explanation at the main office of Public Service Company of Colorado, 1800 Larimer Street, Suite 1400, Denver, Colorado 80202-5533, or at the office of the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado, 80202. Customers who have questions may call the Commission at (303) 894-2000, Xcel Energy at 1-800-895-4999, fax to Xcel Energy at 1-800-895-2895, or e-mail to [inquire@xcelenergy.com](mailto:inquire@xcelenergy.com). Anyone who desires may file written objection. The filing of a written objection by itself will not allow you to participate as a party in any proceeding on the proposed rate changes.

If you wish to participate as a party in any proceeding established in these matters, you must file written intervention documents under Commission Rules of Practice and Procedure or any applicable Commission orders.

Anyone who desires to file written objection to the proposed action, shall file it with the Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado, 80202, or email it to [PUC@dora.state.co.us](mailto:PUC@dora.state.co.us) at least ten (10) days before the proposed effective date of January 3, 2011.

The Public Utilities Commission may hold a hearing to determine what rates, rules and regulations will be authorized. If a hearing is held, the Commission may suspend the proposed rates, rules or regulations.

The rules and regulations ultimately authorized may or may not be the same as those proposed.

Anyone who desires to receive notice of any hearing shall file a written request for notice with the Public Utilities Commission at the above address or alternatively shall contact the External Affairs Section of the Public Service Utilities Commission at 303 894-2070 or toll free 1-800-456-0858 at least ten (10) days before the proposed effective date of January 3, 2011.

If a hearing is held, any member of the public may attend and may make a statement under oath about the proposed increase, whether or not he or she has filed an objection or intervention.

By: Scott B. Brockett  
Director, Regulatory Administration and Compliance