

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

PROCEEDING NO. 19R-0653EG

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IN THE MATTER OF THE PROPOSED RULES CLARIFYING PARTICIPATION IN  
LOW-INCOME PROGRAMS OFFERED BY ELECTRIC AND NATURAL GAS UTILITIES  
PURSUANT TO CODE OF COLORADO REGULATIONS 723-3-3412 AND 723-4-4412.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
G. HARRIS ADAMS  
AMENDING RULES**

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Mailed Date: February 10, 2020

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**I. STATEMENT**

1. On November 27, 2019, the Public Utilities Commission issued the Notice of Proposed Rulemaking (NOPR) that commenced this proceeding. *See* Decision No. C19-0950. The Commission referred this matter to an administrative law judge (ALJ) and scheduled a hearing for February 10, 2020. The purpose of the proposed rules is to amend the rules

governing low-income programs offered by electric and natural gas utilities and make permanent those amendments embodied in the temporary rules adopted by Decision No. C19-0847, issued October 18, 2019 in Proceeding No. 19R-0564EG.

2. After the Colorado Department of Human Services (DHS) changed its Low-income Energy Assistance Program (LEAP) regulations in September 2019, Rule 3412 of the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 and Rule 4412 of the Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 referenced a metric that no longer existed. Temporary rules, currently in effect, eliminated reference to the metric and defined participant eligibility in terms of those utility customers meeting the statutory definition of a low-income utility customer. § 40-3-106(1)(d)(2), C.R.S.

3. Written comments were filed by Public Service Company of Colorado (Public Service or the Company). The Company provided additional oral comment during the course of the hearing.

4. Being fully advised in this matter and consistent with the discussion below, in accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record and exhibits in this proceeding along with a written recommended decision.

## **II. FINDINGS, DISCUSSION, AND CONCLUSIONS**

5. The proposed rules, provided with Decision No. C19-0950 in legislative (*i.e.*, strikeout/underline) format and in final format, were made available to the public through the Commission's Electronic Filings (E-Filings) system.

6. The undersigned ALJ has reviewed the record in this proceeding to date, including written and oral comments.

**A. Discussion**

7. Public Service was the only interested party providing comment. The Company reviewed and summarized the circumstances leading to issuance of the NOPR as well as the proposed rule. Public Service does not oppose adoption of the proposed rules and does not propose any additional modifications at this time.

8. The proposed amendments to the low-income rules make permanent the changes implemented through three temporary rules the Commission put in place for the 2019 through 2020 heating season.

**1. Rule 3412. Electric Service Low-Income Program**

9. Proposed Rule 3412 is identical to the current temporary rule. When compared to the rule as it existed before the temporary rule, proposed subsection c, “Participant eligibility,” removes outdated language that referenced the percentage of the current federal poverty level set by DHS. It also removes a subsection that provided an outdated internet hyperlink to a DHS website. The income eligibility language in the proposed rule tracks the “low income utility customer” definition in § 40-3-106(1)(d)(II), C.R.S.

**2. Rule 4412. Gas Service Low-Income Program**

10. Proposed Rule 4412 is identical to the current temporary rule. When compared to the rule as it existed before the temporary rule, proposed subsection c, “Participant eligibility,” removes outdated language that referenced the percentage of the current federal poverty level set by the DHS. It also removes a subsection that provided an outdated internet hyperlink to a DHS website. The income eligibility language in the proposed rule tracks the “low income utility customer” definition in § 40-3-106(1)(d)(II), C.R.S.

**B. Conclusion**

11. Attachment A to this Recommended Decision represents the rule amendments adopted by this Recommended Decision with modifications to the prior Rule 3412 of the Rules Regulating Electric Utilities, 4 CCR 723-3 being indicated in redline and strikeout format.

12. Attachment B to this Recommended Decision represents the rule amendments adopted by this Recommended Decision to the prior Rule 3412 of the Rules Regulating Electric Utilities, 4 CCR 723-3 in final form.

13. Attachment C to this Recommended Decision represents the rule amendments adopted by this Recommended Decision with modifications to the prior Rule 4412 of the Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 being indicated in redline and strikeout format.

14. Attachment D to this Recommended Decision represents the rule amendments adopted by this Recommended Decision to the prior Rule 4412 of the Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 in final form.

15. The adopted rules in legislative format (*i.e.*, strikeout/underline Attachments A and C) and final format (Attachments B and D) are available through the Commission's E-Filings System in this proceeding (19R-0653EG) at:

[https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=19R-0653EG](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=19R-0653EG)

16. It is found and concluded that the proposed rules as modified by this Recommended Decision are reasonable and should be adopted.

17. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended that the Commission adopt the attached rules.

### III. ORDER

#### A. The Commission Orders That:

1. The Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3, contained in redline and strikeout format attached to this Recommended Decision as Attachment A, and in final format attached as Attachment B, are adopted.

2. The Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4, contained in redline and strikeout format attached to this Recommended Decision as Attachment C, and in final format attached as Attachment D, are adopted.

3. 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.

4. 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.

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

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director