

Decision No. C02-1374

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02R-632E

**IN THE MATTER OF EMERGENCY AMENDMENTS TO THE RULES REGULATING
ELECTRIC UTILITIES, 4 CCR 723-3.**

DECISION ADOPTING EMERGENCY RULES

Mailed Date: December 10, 2002

Adopted Date: December 4, 2002

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of an emergency rule amending the Commission's Rules Regulating the Service of Electric Utilities (Electric Rules), 4 *Code of Colorado Regulations* (CCR) 723-3. The emergency rule amends Rule 11(a) of the Electric Rules to require that the interest rate for customer deposits that electric utilities must pay remain at the current rate of 4.32 percent. For the reasons set forth in this decision, we now adopt, on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth in § 24-4-103, C.R.S.) the rule appended to this order as Attachment A. We take this emergency action in accordance with the provisions of § 24-4-103(6), C.R.S.

2. We find that adoption of the rule is necessary for the preservation of public health, safety, and welfare, and compliance with the rulemaking requirements associated with permanent rules, as set forth in § 24-4-103, C.R.S., would be contrary to the public interest.

3. As grounds for these findings, we state: It is necessary to adopt this emergency rule due to the termination of the publication by the Federal Reserve System that served as the benchmark for setting the interest rates that electric utilities were required to pay on customer deposits.

4. Pursuant to 4 CCR 723-3-11(a), an electric utility may require customers to maintain a cash deposit with it to ensure payment for services. The utility is required to pay simple interest on the deposit held.

5. Staff of the Commission calculates the interest rate to be paid on customer deposits pursuant to guidelines in Rule 4 CCR 723-3-11(a). Specifically, the interest to be paid on deposits for the forthcoming year is to be the average monthly rate in the secondary market for one-year U.S. Treasury Bills for the previous 12-month period beginning October 1 and ending September 30, as posted in the Federal Reserve Bulletin, Board of Governors of the Federal Reserve System, Washington D.C., from the page entitled, *Interest Rate, Money and Capital Markets*.

6. The Board of Governors of the Federal Reserve Bank no longer publishes the information on one-year U.S. Treasury Bills necessary to establish the interest rate for customer deposits held by electric utilities.

7. Further, the Proposed Repeal and Reenactment of the Rules for Electricity, Gas, Water and Telephone Services will address the interest rate on customer deposits, however, the process for establishing those rules is ongoing and will not be completed prior to early January 2003. The existing rate of 4.32 percent terminates on December 31, 2002. Therefore, a regulatory gap in determining the interest rate on customer deposits will exist without this emergency rule to set interim rates.

8. To avoid such a regulatory gap, it is essential that this interest rate be in place as rapidly as possible in order for electric utilities to have a specific interest rate in place for customer deposits subsequent to December 31, 2002. Implementation of the emergency rule will serve to establish an interest rate until the proposed new electric utilities rules become effective.

9. Therefore, emergency adoption of the attached rules is appropriate. The statutory authority for adoption of these rules is set forth in §§ 40-2-108, 40-3-102, 40-3-103, and 40-4-101, C.R.S. The rule attached to this order shall be effective immediately upon the mailed date of this

decision, and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

II. ORDER

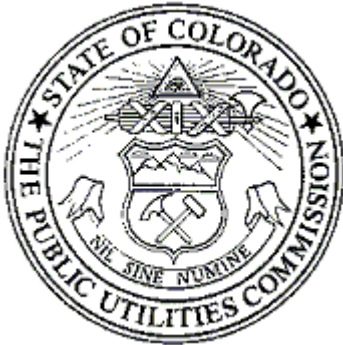
A. The Commission Orders That:

1. The rule appended to this Decision as Attachment A is hereby adopted as an emergency rule consistent with the above discussion.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 4, 2002.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

POLLY PAGE

JIM DYER

Commissioners

Rule 4 CCR 723-3-11 Customer Deposits

723-3-11(a) A utility may require at any time from a customer or prospective customer, a cash deposit intended to guarantee payment of current bills, but only in accordance with this rule. A deposit intended to guarantee payment of current bills shall not exceed an amount equal to an estimated ninety days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case, the deposit shall not exceed an estimated sixty days' bill of the customer. A deposit required pursuant to this rule may be in addition to any advance, contribution, or guarantee in connection with construction of lines or facilities, as provided in the extension policy of the utility's tariffs on file with the Commission. Simple interest of 4.32 percent per annum shall be paid by the utility upon a deposit and in the manner provided in this rule, payable upon the return of the deposit, or annually at the request of the customer. Interest on a deposit shall be earned for the time such deposit is held by the utility, and shall be calculated from the date the deposit is received by the utility to the date of payment to the customer or to the date an amount equal to the deposit is credited to the customer's account. Interest payment, at the option of the utility, may be paid directly to the customer or by a credit to the customer's account. This rate shall remain in effect until permanent rules regulating electric utilities become effective or for 210 days, whichever period is less. Any electric utility receiving customer deposits shall be required to amend its respective tariffs to declare that the interest rate on customer deposits is established by the Colorado Public Utilities Commission. A copy of the letter from the Commission declaring the rate of interest to be paid shall be posted in the utility's general office and each and every payment center where customer payments are accepted. Any customer requesting to confirm the applicable rate of interest shall contact the Colorado Public Utilities Commission. The electric utility shall provide the Customer with the address of the Commission.