

Decision No. R24-0804-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0168EG

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION’S RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, AND ITS RULES REGULATING GAS UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-4, TO IMPLEMENT CERTAIN PROVISIONS IN SENATE BILL 23-291 ADDRESSING TARIFF FILINGS, RATE TREND REPORTS, COSTS PROHIBITED FROM RATES, AND BASE RATE PROCEEDINGS.

**INTERIM DECISION PROPOSING FURTHER
RULE MODIFICATIONS AND SCHEDULING
CONTINUED PUBLIC HEARING**

Issued Date: November 6, 2024

I. STATEMENT AND PROCEDURAL HISTORY

1. On April 30, 2024, by Decision No. C24-0285, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) to amend the Commission’s Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (“CCR”) 723-3 (“Electric Rules”), and its Rules Regulating Gas Utilities, 4 CCR 723-4 (“Gas Rules”), to implement certain statutory provisions enacted by Senate Bill (“SB”) 23-291. The proposed amendments to the Electric Rules and Gas Rules were intended to implement the following recently-enacted statutory provisions: § 40-3-102.5(1)(a), C.R.S., requiring the Commission to promulgate rules to limit the amount of rate case expenses that a utility may recover from its ratepayers; § 40-3-102.5(1)(b), C.R.S., requiring the filing of certain information with a utility’s base rate tariff filing made to the Commission; § 40-3-102.5(2)(a), C.R.S., requiring the filing of rate trend reports when an electric or gas utility

seeks to increase a rate or charge; and § 40-3-114, C.R.S., addressing certain costs that are prohibited from utility rates.

2. The Commission further referred this matter to an Administrative Law Judge (“ALJ”) for the issuance of a Recommended Decision. The matter was subsequently assigned to the undersigned ALJ.

3. The undersigned conducted a remote public hearing on the proposed rules on June 3, 2024.

4. Written comments were filed in this Proceeding by Public Service Company of Colorado; Atmos Energy Corporation; Back Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc.; Colorado Natural Gas; the Colorado Office of the Utility Consumer Advocate; Colorado Energy Consumers; the Energy Policy Institute; the City of Boulder; legislative sponsors of SB 23-291; and from the public.

5. At the remote hearing held on June 3, 2024, twelve speakers gave oral comment. The hearing was continued to allow additional written comments to be filed and an additional hearing to be conducted.

II. MODIFIED PROPOSED RULES AND CONTINUED HEARING

6. Based on the written comments filed in this Proceeding and the oral comments delivered at the public hearing on June 3, 2024, modified proposed rules are attached to this Decision. The proposed changes to the Electric Rules are set forth in legislative (*i.e.*, ~~strikeout and underline~~) format in Attachment A to this Decision, and in final format in Attachment B to this Decision. The proposed changes to the Gas Rules are set forth in legislative (*i.e.*, ~~strikeout and underline~~) format in Attachment C to this Decision, and in final format in Attachment D to this

Decision. Unlike in the NOPR, no further modifications are presented to Commission's Rules of Practice and Procedure, 4 CCR 723-1.

7. For brevity, the attachments to this Decision no longer reproduce the provisions in the Electric Rules and Gas Rules set forth in the attachments to the NOPR but left unmodified.

8. With respect to the definitions portion of the rules, minor changes are shown to reflect certain comments offered by commenters and to reflect some grammatical corrections.

9. The modifications to Rules 3109 and 4109 that address new or changed tariff sheets remain largely unchanged from the original proposals in the NOPR, with minor corrections and certain additions or clarifications as suggested by commenters.

10. The filing requirements and procedures for base rate tariff filings proposed provisions in Rules 3350 through 3352 and in Rules 4350 through 4352 also remain principally as proposed in the NOPR. However, the definitions in Rule 3351 and Rule 4351 are streamlined based on commenters' suggestions. Paragraph 3352(a) and paragraph 4352(a) are also modified such that determinations of completeness will be made only for base rate tariff filings intended to cause an increase in base rate revenues (*i.e.*, for "Phase I" rate cases as described in the utilities' written comments.)

11. The updated proposed rules attached to this Decision further remove Rule 3353 and Rule 4353 as proposed in the NOPR (*i.e.*, the provisions addressing procedural schedules, discovery, a technical conference, and standard disclosures). The underlying goal for this Proceeding is to reduce rate case expenses. The undersigned believes that the proposed provisions in this particular set of proposed rules could theoretically reduce rate case costs, but, as certain commenters suggest, in other cases, they could increase rate case costs. Notably, the undersigned has not seen these procedural actions taken by participants in Commission rate cases since the

enactment of SB 23-291 and believes the preferable tack is for parties to adopt such practices if and when they believe it would lead to cost savings.

12. Section 40-3-114(2), C.R.S., is a new provision enacted by SB 23-291 that further prohibits utilities from recovering several types of expenses from ratepayers. Rule provisions to implement this portion of SB 23-291 are found in Rule 3353 and Rule 4353 in the attachments to this Decision. Paragraphs 3353(a) and 4353(a) list the costs and expenditures that are prohibited from rates. These rules are intended to accomplish the requirement by excluding the costs and expenditures listed in § 40-3-114(2), C.R.S., from the revenue requirement calculations generated by the utility's class cost of service studies presented in a base rate proceeding. Specifically, subparagraphs 3353(a)(I) through (XIV) and 4353(a)(I) through (XIV) correspond to the excluded costs listed in §§ 40-3-114(2)(a) through (1), C.R.S. These rules are unchanged, with only minor exceptions.

13. As ordered below, the undersigned schedules the continued public hearing on November 19, 2024. Written comments on the modified rules attached to this Decision may continue to be filed in this Proceeding.

14. The proposed rules attached to this Decision are available through the Commission's E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0168EG

15. The Commission prefers comments be filed using the Commission's E-Filings System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> under this Proceeding No. 24R-0168EG.

16. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

III. ORDER

A. It Is Ordered That:

1. A public hearing on the proposed rules and related matters shall be held as follows:

DATE: November 19, 2024

TIME: 11:30 a.m. until no later than 3:00 p.m.

PLACE: By video conference using zoom at a link in the calendar of events on the commission's website:
<https://puc.colorado.gov/pucalendar>

2. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

3. Interested persons may file written comments in this matter. The Commission will consider all submissions, whether oral or written. The Commission prefers that participants file comment into this Proceeding using the Commission's E-Filings System at:
<https://www.dora.state.co.us/pls/efi/EFI.homepage>.

4. This Decision is effective upon its Issued Date.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director