

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

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PART 3

RULES REGULATING ELECTRIC UTILITIES AND STEAM UTILITIES

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BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to set forth rules describing the electric and steam service, to be provided by jurisdictional utilities and master meter operators to their customers, and describing the manner of regulation over such 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, flexible regulation, cost allocation between regulated and unregulated operations, recovery of costs, small power producers and cogeneration facilities, 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, 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, and 40-9.5-107(5) C.R.S.

GENERAL PROVISIONS

3000. Scope and Applicability.

- (a) All rules in this Part 3, the "3000" series, shall apply to all jurisdictional electric utilities and electric master meter operators, and to all Commission proceedings and operations concerning electric utilities or electric master meter operators providing electric service, unless a specific statute or rule provides otherwise.
- (b) The following rules in this Part 3 shall apply to all utilities providing steam service and to all Commission proceedings and operations concerning utilities providing steam service, unless a specific statute or rule provides otherwise:
 - (I) Rule 3002(a)(I), (a)(II), (a)(III), (a)(IV), (a)(V), (a)(VII), (a)(IX), (a)(X), (a)(XI), (a)(XII), (b) and (c) concerning the filing of applications for certificate of public convenience and necessity for franchise, service territories, or construction of facilities, certificate amendments, to merge or transfer, to amend steam tariffs on less than statutory notice, for flexible regulation, meter sampling and testing, and for approval of a refund plan;
 - (II) Rule 3004 concerning disputes;
 - (III) Rule 3005(a) (I-VI) except for (II) and (b) concerning steam tariffs filed with the Commission;
 - (IV) Rule 3006(a) and (b) concerning the reporting to the Commission of total gross operating revenues received by a utility from its steam service, and the filing of an annual report with the Commission on or before April 30 of each year regarding a utility's steam service;

- (V) Rule 3008 (a) and (b) concerning incorporation by reference;
- (VI) Rule 3100 concerning the contents of an application seeking approval by a utility to exercise steam franchise rights;
- (VII) Rule 3101 concerning the contents of an application seeking approval by a utility for service territory;
- (VIII) Rule 3102 concerning the contents of an application seeking approval to construct facilities;
- (IX) Rule 3103 concerning the contents of an application seeking certificate amendments;
- (X) Rule 3104 concerning the contents of an application to transfer steam assets to, or to merge with, another entity;
- (XI) Rule 3106 concerning the contents of applications and the procedure for flexible regulation;
- (XII) Rule 3108 except for 3108(a) concerning the requirement that a utility keep its current tariffs, contracts, privileges, contract forms, and service agreements on file with the Commission and available for public inspection at the utility's local office and principal place of business;
- (XIII) Rule 3109 concerning the procedure for filing new or changed steam tariffs;
- (XIV) Rule 3110 concerning the requirements of advice letters;
- (XV) Rule 3200(a) concerning construction, installation, maintenance and operation of steam plant;
- (XVI) Rule 3203 concerning interruption of service;
- (XVII) Rule 3204 concerning the reporting of accidents to the Commission;
- (XVIII) Rule 3210(a) concerning line extensions;
- (XIX) Rule 3300(a), (b), and (d) concerning service meters and related equipment;
- (XX) Rule 3301 concerning meter location;
- (XXI) Rule 3302(d) service meter accuracy;
- (XXII) Rule 3303(a), (b), (c), (f), (i) and (j) concerning meter testing equipment and facilities;
- (XXIII) Rule 3304(d) and (e) concerning scheduled meter testing;

- (XXIV) Rule 3305(a), (b)(III), (c) and (d) concerning meter testing upon request;
 - (XXV) Rule 3306 concerning records of tests and meters;
 - (XXVI) Rule 3309 concerning meter reading;
 - (XXVII) Rule 3400 concerning billing information to be included on bills for steam service;
 - (XXVIII) Rule 3401 concerning adjustments for meter and billing errors;
 - (XXIX) Rule 3402 concerning customer deposits;
 - (XXX) Rule 3403 concerning installment payments;
 - (XXXI) Rule 3404 concerning information to be provided to customers when any change is proposed or made to any term or condition of steam service that will affect the quality of service;
 - (XXXII) Rule 3406(a), (b), (c), (d) and (e)(I and III)), concerning discontinuance of steam service;
 - (XXXIII) Rule 3407(a), (b)(I)-(XI) and (c)-(i) except for (g)(IV) concerning discontinuance of steam service;
 - (XXXIV) Rule 3408 except for (b)(III) concerning the restoration of steam service; and
 - (XXXV) Rule 3409 concerning the contents of applications for approval of refund plans.
- (c) The following rules in this Part 3 shall apply to cooperative electric associations as authorized by § 40-9.5-107 C.R.S. that have elected to exempt themselves from public utilities law pursuant to § 40-9.5-103 C.R.S.:
- (I) Rule 3002 (a)(I), (a)(II), (a)(IV), (a)(V), (a)(XIV), (b) and (c) concerning the filing of applications for certificate of public convenience and necessity for franchise or service territory, for certificate amendments, to merge or transfer, or for appeals of local land use decisions;
 - (II) Rule 3004 concerning disputes alleging that the rates, charges, rules or regulations of a cooperative electric association are unjust or unreasonable;
 - (III) Rule 3005 (a)(I), (III) (IV), (d) and (e) concerning records under RUS accounting system and preservation of records;

- (IV) Rule 3006 concerning the filing of annual reports, designation for service of process, and election of applicability of Article 8.5;
 - (V) Rule 3008 (a) and (b) concerning incorporation by reference;
 - (VI) Rules 3100 and 3103 concerning applications for and amendments to certificates of public convenience and necessity relating to a franchise;
 - (VII) Rule 3101 and 3103 concerning application for and amendments to certificate of public convenience and necessity relating to service territory;
 - (VIII) Rule 3104 concerning application to transfer assets to, or to merge with another entity;
 - (IX) Rule 3204 concerning accidents occurring in connection with the operation of facilities;
 - (X) Rule 3207 except for (b) concerning construction and expansion of distribution facilities;
 - (XI) Rules 3700 through 3706 concerning appeals of local governmental land use decisions actions.
- (d) The following rules in this Part 3 shall apply to cooperative electric generation and transmission associations:
- (I) Rule 3002 (a)(III), (a)(XIV), (b) and (c) concerning the filing of applications for certificates of public convenience and necessity for facilities or for appeals of local land use decisions;
 - (II) Rule 3005 (d) and (e) concerning records under RUS accounting system and preservation of records;
 - (III) Rule 3006 (a), (b) and (e) concerning the filing of annual reports and for least cost planning reports;
 - (IV) Rule 3008 (a) and (b) concerning incorporation by reference;
 - (V) Rule 3102 concerning certificate applications for only facilities;
 - (VI) Rule 3103 concerning certificate amendments for only facilities;
 - (VII) Rule 3104 concerning the transfers and mergers;
 - (VIII) Rule 3200 concerning construction, installation, maintenance and operation of facilities;

- (IX) Rule 3204 concerning accidents occurring in connection with the operation of facilities;
- (X) Rule 3205 concerning construction or expansion of generating capacity;
- (XI) Rule 3206 concerning construction or expansion of transmission facilities.
- (XII) Rules 3602, 3605, and 3614(a) concerning least cost resource planning;
- (XIII) Rules 3700 through 3706 concerning appeals of local governmental land use decisions actions.

3001. Definitions.

The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise:

- (a) "Affiliate" means companies that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the accounting company. For purposes of this definition, control (including the terms *controlling*, *controlled by*, and *under common control with*) means the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, affiliated companies, contract, or any other direct or indirect means.
- (b) "Average error" means the arithmetic average of the percent registration at light load and at heavy load, giving the heavy load registration a weight of four and the light load registration a weight of one.
- (c) "Basis Point" means one-hundredth of a percentage point (100 basis points = 1%).
- (d) "Customer" means any person or purchaser who is currently receiving service from a utility. Any person or purchaser who moves within that utility's service territory and requests that service be terminated at the old location and reinstated at, or transferred to, the new location within thirty (30) days shall be considered an existing "customer." Unless stated in a particular rule, "Customer" applies to any class of customer as defined by the Commission and utility tariff.

- (e) "Creep" means that with all load wires disconnected, a meter's moving element makes one complete revolution in 10 minutes or less.
- (f) "Distribution extension" is any construction of distribution facilities, including primary and secondary distribution lines, transformers, service laterals, and appurtenant facilities (excepting meters and meter installation facilities) necessary to supply service to additional customers.
- (g) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area and substations constructed under existing lines to transform electricity to a distribution voltage, regardless of voltage.
- (h) "Energy assistance organization" means, the nonprofit corporation established for low-income energy assistance pursuant to §40-8.5-104, C.R.S.
- (i) "Heavy load" means at least 60 percent, but not more than 100 percent of the nameplate-rated capacity of a meter.
- (j) "Light load" means approximately 5 to 10 percent of the nameplate-rated capacity of a meter.
- (k) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or discontinue utility service. If the utility does not operate any office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or discontinue utility service in Colorado.
- (l) "Main service terminal" means the point at which the utility's metering connections terminate. Main service terminals are accessed by removing the meter dial face from the meter housing.
- (m) "Past due" means that point at which a company can affect a customer's regulated account or regulated service for non-payment of regulated charges. Unless otherwise stated in a particular Commission rule or tariff, an account becomes "past due" on the thirty-first (31st) day following the due date of current charges.
- (n) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals that directly oversee the utility's operations in Colorado are located.
- (o) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- (p) "Rotating standard" means a portable meter used for testing service meters.

- (q) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- (r) "Security" includes any stock, bond, note, or other evidences of indebtedness.
- (s) "Service connection" is that point on the customer's premises/facilities where a point of delivery of power between the utility and the customer is established. Typically, for a residential customer served from overhead secondary supply, this is the point where the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.
- (t) "Transmission extension" is any construction of transmission facilities and all appurtenant facilities including meter installation facilities (except meters) extending from the utility's transmission system necessary to supply transmission service to an additional customer or customers.
- (u) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities in the area, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers.
- (v) "Utility" means any public utility as defined in § 40-1-103(1)(a), C.R.S., providing electric or steam, or associated services in the state of Colorado.

3002. Applications.

- (a) Any person may seek action regarding any of the following matters through the filing of an appropriate application:
 - (I) For the issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 3100.
 - (II) For the issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 3101.
 - (III) For the issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 3102.
 - (IV) For certificate amendments to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 3103.
 - (V) To transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility,

to transfer assets, or stock, or to merge a utility with another entity, as provided in rule 3104.

- (VI) For approval of the issuance, renewal, extension, or assumption of any security, or the creation of any lien, as provided in rule 3105.
 - (VII) For flexible regulation to provide service without reference to tariffs, as provided in rule 3106.
 - (VIII) For approval of air quality improvement programs, as provided for in rule 3107.
 - (IX) To amend a tariff on less than statutory notice, as provided in rule 3109.
 - (X) For variance of voltage standards, as provided in rule 3202.
 - (XI) For approval of meter and equipment testing practices, as provided in rule 3303.
 - (XII) For approval of meter sampling program, as provided in rule 3304.
 - (XIII) For approval of component and source disclosure information, as provided in rule 3405.
 - (XIV) For approval of refund plan, as provided in rule 3409.
 - (XV) For approval of a cost assignment and allocation manual, as provided in rule 3503.
 - (XVI) For approval of or amendments to a least cost resource plan, as provided in rules 3603 and 3615.
 - (XVII) For appeal of local government land use decision, as provided in rule 3702.
 - (XVIII) For exemption of a master meter operator from rate regulation, as provided in rule 3802.
 - (XIX) For any other matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.
- (b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The name and address of the applicant;

- (II) The name(s) under which the applicant is, or will be, providing service in Colorado;
 - (III) The name, address, telephone number, facsimile number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (IV) A statement that the applicant agrees to answer all questions propounded by the Commission or its Staff concerning the application;
 - (V) A statement that the applicant shall permit the Commission or any member of its Staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VI) A statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;
 - (VII) A statement describing the applicant's existing operations and general service area;
 - (VIII) A copy of the applicant's most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows;
 - (IX) A statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held;
 - (X) Acknowledgment that by signing the application, the applicant understands that:
 - (A) The filing of the application does not by itself constitute approval of the application;
 - (B) If the application is granted, the applicant shall not commence the requested action until the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application;
 - (XI) A statement made under penalty of perjury and signed by an officer, a partner, an owner, or an employee of the applicant, as appropriate, who is authorized to act on behalf of the applicant and which states that the contents of the application are true, accurate, and correct. The application shall contain the complete address of the affiant.
- (c) In addition to the requirements of specific rules, all applications shall either include the following items or

incorporate such items by referring to information already on file with the Commission. Applicants choosing to keep the items on file with the Commission are responsible for keeping the most current version on file and indicating in the application when the item was last filed with the Commission. Applicants choosing to include the item with the application shall include it in the following order and specifically identified either in the application or in appropriately identified attached exhibits:

- (I) A copy of the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
- (II) If the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;
- (III) The names, business addresses, and titles of all officers, directors, and partners;
- (IV) A description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;
- (V) A copy of any management contracts, service agreements, or marketing agreements between the applicant or any other entity, including affiliates of the applicant, that relate to providing services; and
- (VI) The name and address of applicant's Colorado agent for service of process.

3003. [Reserved].

3004. Disputes and Informal Complaints.

- (a) For purposes of this rule, a dispute is a concern, difficulty, or problem needing resolution that a customer brings directly to the attention of the utility without the involvement of Commission staff.
- (b) Each utility shall make a full and prompt investigation of all informal complaints pursuant to Rule 1301, and all disputes concerning jurisdictional service. Utilities shall comply with all other rules regarding the timelines for responding to informal complaints. When a customer is dissatisfied with the utility's proposed adjustment or disposition of the dispute, the utility shall inform the customer of the right to file an informal complaint with the External Affairs section of the Commission, and the address and toll free number of the Commission.

- (c) Each utility shall keep a record of all such informal complaints and disputes, which record shall show the name and address of the customer, the date and character of the issue, and the adjustment or disposition made thereof. This record shall be open at all times to the inspection of the duly authorized representatives of this Commission, and shall be retained by the utility for a period of two years.

3005. Records.

- (a) Every utility shall maintain required records at its principal place of business during regular business hours, as follows:
 - (I) Records concerning disputes and informal complaints under rule 3004.
 - (II) Daily load and monthly plant output under rule 3201.
 - (III) Service voltage measurements made pursuant to rule 3202(a).
 - (IV) Records concerning interruptions of service under rule 3203.
 - (V) Records concerning certification and calibration of meter testing equipment under rule 3303.
 - (VI) Records concerning meter testing upon customer request under rule 3305.
 - (VII) Records concerning meters and their associated testing under rule 3306.
 - (VIII) Customer billing records under rule 3401(b).
 - (IX) Customer deposit records under rule 3402.
 - (X) The utility's inspection of Qualifying Facilities under rule 3927(c).
- (b) All tariffs filed with the Commission and applying to Colorado rate areas shall be on file at each local office and principal place of business of the utility. If the utility maintains a website, it shall also provide a comprehensive and current tariff on its website.
- (c) Each utility shall maintain its books of account and records in accordance with the provisions of 18 C.F.R. Part 101, the Uniform System of Accounts, amended as of April 1, 1999. A utility must maintain its books of accounts and records separately from those of its affiliates.
- (d) Each cooperative electric association that is a RUS borrower shall maintain its books of account and records in accordance

with the provisions of 7 C.F.R. Part 1767, effective as of September 5, 1997.

- (e) Each non-RUS borrower cooperative electric association shall maintain its books of account and records consistent with the provisions of 18 C.F.R. Part 125, effective as of April 1, 1999, or consistent with the provisions of 7 C.F.R. Part 1767, effective as of September 5, 1997.
- (f) Each utility shall preserve its records in accordance with the provisions of 18 C.F.R. Part 125, the Preservation of Records of Public Utilities and Licensees, amended as of April 1, 2001.
- (g) Each cooperative electric association that is a RUS borrower shall preserve its records in accordance with the provisions of Rural Utilities Service Bulletin 180-2, effective June 26, 2003.
- (h) Each non-RUS borrower cooperative electric association shall preserve records consistent with the provisions of 18 C.F.R. Part 101, effective as of April 1, 2001.

3006. Reports.

Each utility shall provide reports to the Commission as follows:

- (a) Each utility shall file with the Commission, on or before April 30th of each year, an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility. If the Commission grants the utility an extension of time to file the annual report, the utility shall nevertheless file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year.
- (b) If a utility publishes an annual report or an annual statistical report to stockholders, other security holders or members, or receives an annual certified public accountant's report of its business, it must file one copy with the Commission within 30 days after publication or receipt of such report.
- (c) Report of election by electric cooperative electric associations to be governed pertaining to unclaimed monies, pursuant to § 40-8.5-102.
- (d) Any accident resulting in death, serious injury, or serious property damage, pursuant to rule 3204.
- (e) Any major events, pursuant to rule 3253.
- (f) [Cost assignment and allocation-Reserved].

- (g) For annual progress reports of the utility's least cost resource plan, as provided in rule 3614(a).
- (h) For reports on competitive acquisition bidding of the utility's least cost resource plan, as provided in rule 3614(b).
- (i) Quarterly reports on Qualifying Facilities, pursuant to rule 3954.
- (j) Such special reports as the Commission may require.

3007. [Reserved].

3008. Incorporation by Reference.

- (a) The Commission incorporates by reference the April 1, 1999 edition of 18 C.F.R. Part 101 regarding the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act and the September 9, 1997 edition of 7 C.F.R, Part 1767 regarding the Uniform System of Accounts Prescribed for RUS Electric Borrowers. No later amendments to or editions of 18 C.F.R. Part 101 and 7 C.F.R., Part 1767 are incorporated into these rules.
- (b) The Commission incorporates by reference the April 1, 2001 edition of 18 C.F.R. Part 125 regarding the Preservation of Records of Public Utilities and Licensees and the June 26, 2003 edition of RUS Bulletin 180-2 regarding Record Retention Recommendations for RUS Electric Borrowers. No later amendments to or editions of 18 C.F.R. Part 125 or RUS Bulletin 180-2 are incorporated into these rules.
- (c) The Commission incorporates by reference the August 2001 edition of the National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers on August 1, 2001 and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.
- (d) The Commission incorporates by reference the federal regulations of the Federal Energy Regulatory Commission implementing §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978 that are published in 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C (April 1, 2003). This incorporation by reference does not include later amendments to, or editions of, 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C, adopted after April 1, 2003.
- (e) Any material incorporated by reference in this Part 3 may be examined at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at costs upon request. The Director or the Director's designee

will provide information regarding how the incorporated standards may be examined at any state public depository library.

3009. -3099 [Reserved].

OPERATING AUTHORITY

3100. Certificate of Public Convenience and Necessity for a Franchise.

- (a) Contents. The application for certificate of public convenience and necessity to exercise franchise rights shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required in rules 3002(b) and (c).
 - (II) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.
 - (III) A statement describing the franchise rights proposed to be exercised. The statement shall include a description of the type of utility service to be rendered and a description of the area sought to be served, together with a map of the area.
 - (IV) A certified copy of the franchise ordinance; proof of publication, adoption, and acceptance by the applicant; a statement as to the number of customers served or to be served and the population of the city or town; and any other pertinent information.
 - (V) A statement describing in detail the extent to which the applicant is affiliated with any other company which holds authority duplicating in any respect the authority sought.
 - (VI) A copy of a feasibility study for areas previously not served, which shall at least include estimated investment, income, and expense. An applicant may request that the most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.
 - (VII) A statement of the names of public utilities and other entities of like character providing similar service in or near the area involved in the application.
 - (VIII) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.

3101. Certificate of Public Convenience and Necessity for Service Territory.

- (a) Contents. The application for certificate of public convenience and necessity for service territory issuance or expansion shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The information required in rules 3002(b) and (c).
 - (II) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.
 - (III) A description of the type of utility service to be rendered and a description of the area sought to be served.
 - (IV) A map showing the specific geographic area that the applicant proposes to serve. If the applicant intends to phase in service in the territory over time, specific areas and proposed in-service dates shall be included. The map shall describe the geographic areas in section, township, and range convention.
 - (V) A statement describing in detail the extent to which the applicant is affiliated with any other company which holds authority duplicating in any respect the territory sought.
 - (VI) A statement of the names of public utilities and other entities of like character providing similar service in or near the area involved in the application.
 - (VII) A copy of a feasibility study for the proposed area to be served, which shall at least include estimated investment, income, and expense. An applicant may request that the most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.
 - (VIII) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.

3102. Certificate of Public Convenience and Necessity for Facilities.

- (a) Contents. The application for certificate of public convenience and necessity to construct facilities shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The information required in rules 3002(b) and (c).

- (II) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application or citation to any Commission decision that is relevant to the proposed facilities.
- (III) A description of the proposed facilities to be constructed.
- (IV) Estimated cost of the proposed facilities to be constructed.
- (V) Anticipated construction start date, construction period, and in-service date.
- (VI) A map showing the general area or actual locations where facilities will be constructed, population centers, major highways, county and state and boundaries.
- (VII) Electric one-line diagrams, if applicable.
- (VIII) Information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives, if applicable.
- (IX) A report of prudent avoidance measures considered and justification for the measures selected to be implemented, if applicable.
- (X) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.

3103. Certificate Amendments.

- (a) Contents. The application to amend a certificate of public convenience and necessity, or to change, extend, curtail, or abandon, or discontinue any service or facility without equivalent replacement, shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and (c).
 - (II) If the application for amendment pertains to a certificate of public convenience and necessity for facilities, all of the information required in rule 3102;
 - (III) If the application for amendment pertains to a certificate of public convenience and necessity for franchise rights or service territory, all of the information required in rule 3100 or 3101;
 - (IV) If the application is to curtail, abandon, discontinue or restrict a service, the application shall include:

- (A) The requested effective date for the curtailment, abandonment, discontinuance, or restriction of service.
- (B) A statement describing the curtailment, abandonment, discontinuance, or restriction sought. The statement shall include maps, as applicable. The statement shall also include a description of the applicant's existing operations and general service area.
- (V) The application shall contain a statement that the applicant understands it must present evidence at the hearing showing how the public interest will be affected by the grant of the application.
- (b) In addition to the notice requirements of the Rules Regulating Practice and Procedure, the applicant shall prepare a written notice as provided in subparagraph (g) of this rule and shall mail or deliver the notice at least 30 days before the application's requested effective date to each of the applicant's affected customers. If no customers will be affected by the grant of the application, the notice shall be mailed to the Board of County Commissioners of each affected county, and to the mayor of each affected city, town, or municipality.
- (c) The notice shall contain all of the following:
 - (I) The name of the applicant.
 - (II) A statement detailing the requested curtailment, abandonment, discontinuance, amendment, or restriction, and its requested effective date.
 - (III) A statement indicating that any person may file a written objection with the Commission no later than ten days prior to the requested effective date; but that a written objection alone will not preserve any right to participate as a party in any Commission proceeding on the matter.
 - (IV) A statement indicating that in order for any person to participate as a party, such person must file an appropriate and timely intervention according to the Commission's Rules Regulating Practice and Procedure.
 - (V) The Commission's full address.
- (d) Prior to 15 days before the requested effective date, the applicant shall file with the Commission a written affidavit stating its compliance with the notice requirements of subparagraphs (f) and (g) of this rule. The affidavit shall state the date the notice was completed and the method used to give notice. The applicant shall attach a copy of the notice to the affidavit.

- (e) No proposed amendment, change, extension, curtailment, abandonment, or discontinuance shall be effective unless and until the Commission has entered an order approving it.

3104. Transfers and Mergers.

- (a) Contents. The application to transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets or stock, or to merge a utility with another entity shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required in rules 3002(b) and (c), as pertinent to each party to the transaction;
 - (II) A statement showing accounting entries, under the Uniform System of Accounts, including any plant acquisition adjustment, gain, or loss proposed on the books by each party before and after the proposed transfer;
 - (III) Copies of any sales agreement or contract of sale and all documents pertaining to the transfer;
 - (IV) Facts showing that the transfer is not contrary to the public interest, and an evaluation of the benefits and detriments, if any, to the customers of each party and to all other persons who will be affected by the transfer; and
 - (V) A comparison of the kinds and costs of service rendered before and after the proposed transfer.
- (b) An application to transfer a certificate may be made by joint or separate application of the transferor and the transferee.
- (c) When control of a utility is transferred to another utility, or the name is changed, the utility which will afterwards operate under the certificate shall file an adoption notice with the Commission, post the adoption notice in a prominent public place in each local office and principal place of business of the utility, and have the adoption notice available for public inspection at each local office and principal place of business. Adoption notice forms are available from the Commission. The adoption notice shall contain all of the following information:
 - (I) The name, phone number, and complete address of the adopting utility.
 - (II) The name of the previous utility.
 - (III) The number of the tariff adopted, and the description or title of the tariff adopted.

- (IV) The number of the tariff after adoption, and the description or title of the tariff after adoption.
- (V) A statement that the adopting utility is making its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.

3105. Securities.

- (a) Applicability. Any utility which derives more than 5 percent of its consolidated gross revenues in Colorado as a public utility, or which derives a lesser percentage if its revenues are earned by supplying an amount of energy which equal 5 percent or more of this State's consumption, must file an application for Commission approval of any proposal to issue, renew, extend, or assume any security, or to create any lien on its property within the State of Colorado.
- (b) Contents. The application for the issuance, renewal, extension, or assumption of securities shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and (c).
 - (II) A copy of the resolution of the applicant's board of directors approving the issuance, renewal, extension, or assumption of the securities, together with copies of the proposed indenture requirements, the mortgage note, the amendment to amending loan contract, and the contract for sale of securities.
 - (III) A statement describing each short-term and long-term indebtedness outstanding on the date of the balance sheet.
 - (IV) A statement describing the classes and amounts of capital stock authorized by the articles of incorporation, and the amount by each class of capital stock outstanding on the date of the balance sheet.
 - (V) A statement of capital structure, showing common equity, long-term debt and preferred stock, if any, and pro forma capital structure on the date of the balance sheet giving effect to the issuance of the proposed securities. Debt and equity percentages to total capitalization, actual and pro forma, shall be shown.
 - (VI) A statement of the amount and rate of dividends declared and paid, or the amount and year of capital credits assigned and capital credits refunded, during the previous four calendar years including the present year to the date of the balance sheet.

- (VII) A statement describing the type and amount of securities to be issued, the anticipated interest rate or dividend rate, redemption or sinking fund provisions if any, and a copy of the registration statement, related forms, and preliminary prospectus filed with the Securities and Exchange Commission relating to the proposed issuance.
- (VIII) A statement of proposed uses, including construction, to which the funds will be or have been applied, and a concise statement of the need for the funds.
- (IX) A statement of the estimated cost of financing.
- (c) The Commission shall publish notice of the application, which shall set a ten-day intervention period and a hearing date. Within three days after the filing of an application to issue, renew, extend or assume a security, or to create a lien on property in Colorado, the utility shall publish notice of the filing of the application in a newspaper of general circulation. The notice shall contain all the following information:
 - (I) The name and address of the utility.
 - (II) A statement of the purpose of the application, including a statement of the effect the application would have upon existing customers if granted.
- (d) The utility shall file with the Commission a copy of the published notice and an affidavit of publication as soon as possible after the filing of the application. The Commission shall not grant the application without a filed copy of the notice and the affidavit of publication.
- (e) The Commission shall give priority to all securities applications, and shall grant or deny them within 30 days after filing, unless the Commission, for good cause shown, enters an order granting an extension and stating fully the facts necessitating the extension.
- (f) The Commission, consistent with the provisions of § 40-1-104, C.R.S., shall approve or disapprove a securities application via written order.
- (g) Pursuant to the applicability provisions of §40-1-104, C.R.S., a utility may issue or renew, extend, or assume liability on securities, other than stocks, with a maturity date of not more than twelve months after the date of issuance, whether secured or unsecured, without application to or order of the Commission; but no such securities so issued shall in whole or in part be refunded by any issue of securities having a maturity of more than twelve months except on application to and approval of the Commission.

- (h) Any security requiring Commission approval, but issued, renewed, extended, or assumed without such approval, shall be void.

3106. Flexible Regulation to Provide Service Without Reference to Tariffs.

- (a) Contents. The application for flexible regulation to provide service without reference to tariffs shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 3002(b) and (c).
 - (II) The name of the customer or potential customer.
 - (III) A description of the services which the applicant seeks to provide to a customer or a potential customer.
 - (IV) A statement regarding how the applicant will provide service if it contracts with a customer or potential customer.
 - (V) The facts which the applicant believes satisfy the requirements of § 40-3-104.3(1)(a), C.R.S.
 - (VI) A statement that the applicant has provided copies of the application and contract as required by paragraph (c) of this rule.
- (b) An application must be accompanied by the direct testimony or exhibits to be offered at hearing, unless the applicant believes that it will be uncontested and unopposed. If an exhibit is large or cumbersome the applicant shall file the title of each exhibit and a summary of the information contained in the exhibit, and provide the location of the exhibit where parties may inspect it.
- (c) Any contract filed with an application shall be filed with the Commission under seal pursuant to Rules 1100 - 1102 and § 40-3-104.3(1)(b), C.R.S. The applicant shall furnish a copy of the application and contract to the OCC. The applicant shall also furnish a copy of the application without the contract to any utility then providing service to the customer. The Commission and the OCC, shall treat the contract as confidential.
- (d) Prefiled testimony or exhibits shall not be modified once filed except for typographical errors or mistakes or where all parties to the proceeding agree to the change. In the event a substantive change is made without the agreement of all parties, the Commission may consider the effect of the substantive change as a basis for a motion to continue in order to allow the Staff of the Commission and any other party a reasonable opportunity to properly address the change.

- (e) Any party desiring to intervene must move to do so within five days of the date the Commission provides notice.
- (f) In the event a person intervenes in a proceeding initiated under § 40-3-104.3, C.R.S., upon notice to the applicant, either in writing, by facsimile, or by any other method, the applicant shall hand deliver or otherwise provide to the intervenor, copies of all prefiled testimony and exhibits within two days.
- (g) Unless the Commission orders otherwise, the applicant shall publish notice of the application in a newspaper of general circulation on the same day as the filing of the application. The Commission may, but need not, provide notice of the application.
- (I) The notice provided by the applicant shall contain all the following information:
 - (A) The name and address of the applicant.
 - (B) A statement that the applicant is seeking an order from the Colorado Public Utilities Commission authorizing it to provide service under contract without reference to its tariffs;
 - (C) The name of the proposed customer;
 - (D) A statement that the proposed customer may have the ability to provide its own service or may have competitive alternatives available to it;
 - (E) A general description of the types of services to be affected;
 - (F) A statement of where affected customers may call to obtain information concerning the application;
 - (G) A statement that anyone may file a written objection to the application, but that the mere filing of a written objection will not permit participation as a party in any proceeding before the Commission;
 - (H) A statement that anyone desiring to participate as a party must file a petition to intervene within five days from the date of Commission notice of the application, and that the intervention must comport with the Commission's Rules Regulating Practice and Procedure;
- (II) Within three days of providing notice, the applicant must file with the Commission an affidavit showing proof of publication of notice.

- (h) Should an application be filed which the Commission determines is not complete, the Commission shall notify the applicant within ten days from the date the application is filed of the need for additional information. The applicant may then supplement the application so that it is complete. Once complete, the Commission will process the application, with all applicable timelines running from the date the application is completed.
- (i) The Commission shall issue an order approving or disapproving the application within the time permitted under § 40-3-104.3(1)(b), C.R.S.
- (j) At the time of any proceeding in which a utility's overall rate levels are determined, the Commission shall require the utility to file a fully distributed cost methodology which segregates investments, revenues, and expenses associated with utility service provided by a contract from other regulated utility operations, to ensure that such services are not subsidized by revenues from other utility operations. If revenues from a service provided by a utility under a contract are less than the cost of service, the rates for other regulated utility operations may not be increased to recover the difference.
- (k) The utility shall provide final terms of service as specified in § 40-3-104.3(1)(e), C.R.S.

3107. Air Quality Improvement Programs.

- (a) Contents. The application for cost recovery of air quality improvement program shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (b) All information required in rules 3002(b) and (c).
- (c) A copy of the voluntary agreement entered into pursuant §40-3.2-102(1).
- (d) An analysis demonstrating that the proposed cost recovery mechanism does not exceed the kilowatt hour, total cost cap, or recovery period established in §40-3.2-102(3).
- (e) A written acknowledgement that any revenues the utility receives from transferring, selling, banking or otherwise, under the federal Clean Air Act shall be credited to the utility's customers to offset air quality improvement costs pursuant to §40-3.2-102(4).
- (f) A statement on whether the utility's generating capacity will increase under the voluntary agreement for air quality improvement.
- (g) A statement, if applicable, as to whether the utility intends to seek recovery of a portion of the air quality improvement costs

from its wholesale customers and whether it intends to credit retail customers for air quality improvement costs it recovers from its wholesale customers pursuant to §40-3.2-102(7)

3108. Tariffs and Contracts.

- (a) A utility shall keep its current tariffs, contracts, privileges, contract forms, and electric service agreements on file with the Commission. Unless otherwise provided by law all tariffs, contracts, privileges, contract forms, and electrical service agreements shall be available for public inspection at the Commission and at each local office, and at the principal place of business of the utility. Tariffs must plainly show all terms, conditions, rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected and enforced, including:
 - (I) Each utility's tariff shall include information regarding its voltages, pursuant to rule 3202.
 - (II) Each utility's tariff shall include information regarding its line extension policies, procedures, and conditions pursuant to rule 3210.
 - (III) Each utility's tariff shall include information regarding its meter testing equipment and facilities, scheduled meter testing, fees for meter testing upon request, and meter reading, pursuant to rules 3303, 3304, 3305, and 3309.
 - (IV) Each utility's tariff shall include information regarding any benefit of service transfer policies, pursuant to rule 3400(a)(VIII).
 - (V) Each utility's tariff shall include information regarding the utility's customer deposit policy, pursuant to rule 3402.
 - (VI) Each utility's tariff shall include information regarding installment payment plans, pursuant to rule 3403(a).
 - (VII) Each utility's tariff shall include information regarding collection fees or miscellaneous service charges, pursuant to rule 3403(b)(V - VII).
 - (VIII) Each utility's tariff shall include information regarding any after hour restoration fees, pursuant to rule 3408.
 - (IX) Each utility's tariff shall include information regarding Avoided Costs, pursuant to rule 3900.
 - (X) All other rules, regulations, and policies covering the relations between the customer and the utility.

3109. New or Changed Tariffs.

- (a) A utility may seek to add a new tariff or change an existing tariff in either of the two following ways:
 - (I) The utility may file the proposed tariff, including the proposed effective date, accompanied by an advice letter, and providing notice in accordance with rule 1206. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the proposed effective date, the proposed tariff shall take effect on the proposed effective date.
 - (II) The utility may file an application to implement a proposed tariff on less than 30 days' notice, accompanied by the proposed tariff, including the proposed effective date, and providing notice in accordance with rule 1206. The application must explain the details of the proposed tariff, including financial data if applicable, justify why the proposed tariff must become effective on less than 30-days notice, and note any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.
- (b) Each tariff sheet, not an original, shall be designated "1st revised sheet No. ____ cancels original sheet No. ____," or "2nd revised sheet No. ____ cancels 1st revised sheet No. ____," as appropriate. Each sheet shall direct attention to the changes by the use of symbols in the right margin such as "I" for increase, "D" for decrease, "C" for change in text, and "N" for new text. On a contents or index page the utility shall show the meaning of the symbols used by it to point out changes contained in its revised tariff filings. If a tariff sheet is issued under a specific authority or decision of the Commission, each sheet so affected shall show the number in the space provided at the foot of the sheet.
- (c) The Commission may reject any tariff that is not in the form or does not contain the information required by statutes, rules, regulations, orders, and decisions of the Commission. Any tariff rejected by the Commission shall be void and shall not be used.

3110. Advice Letters.

Each proposed tariff must be accompanied by a serially-numbered advice letter. The letter shall list all sheets included in the filing by number, and show the sheets, being cancelled, if any. The purpose of the filing, the changes being proposed, the amounts, if any, by which the utility's revenues will be affected, and the extent to which customers will be affected shall be clearly summarized, along with information demonstrating that the proposed tariff is just and reasonable.

3111. [Reserved].

3112. - 3199 [Reserved].

FACILITIES

3200. Construction, Installation, Maintenance, and Operation.

- (a) The electric plant, equipment, and facilities of the utility shall be constructed, installed, inspected, maintained, and operated in accordance with accepted good engineering practice in the electric industry to assure continuity of service, uniformity in the quality of service, and the safety of persons and property.
- (b) For all electric plant construction or installation commenced on or after August 1, 2001, the utility shall use as a minimum standard of accepted good engineering practice the August 2001 edition of the National Electrical Safety Code as incorporated by reference under rule 3008(c).
- (c) For all electric plant construction or installation commenced prior to August 1, 2001, the minimum standard of accepted good engineering practice is the edition of the National Electrical Safety Code in effect at the time of commencing construction or installation of the electric plant. Any electric plant of the utility that was constructed or installed, and that is maintained and operated in accordance with the National Electrical Safety Code in effect at the time of its construction or installation shall be presumed to be in compliance with accepted good engineering practice in the electric industry and the provisions of this rule.

3201. Plant Instruments.

Each electric utility shall install such indicating watt meters, watt-hour meters, or other instruments as may be necessary to obtain a daily record of the load, and a monthly record of the output of its plants. Each utility purchasing electrical energy shall install such instruments or meters as may be necessary to furnish full information as to the monthly purchases.

3202. Standard Voltage and Frequency.

- (a) A utility must make every reasonable effort to maintain a constant frequency and constant voltage at all times. A utility shall periodically measure and record service voltages maintained at the utility's main service terminals as installed for individual customers or groups of customers, which shall be practically constant as follows:
 - (I) For service rendered under a lighting contract or primarily for lighting purposes, the voltage shall be maintained within 5 percent above or below the standard provided for in the utility's tariff.

- (II) For service rendered under a power contract or primarily for power purposes the voltage shall be maintained within 10 percent above or below the standard provided for in the utility's tariff.
 - (III) Variations in voltage in excess of those specified caused by the operation of power apparatus on the customer's premises which necessarily require large starting currents, caused by the action of the elements, or caused by infrequent, unavoidable, and short-duration fluctuations due to necessary station or line operations, shall not be considered a violation of this rule if only the customer's premises are affected. If other customers are affected, the one causing the problem shall work with the local utility to resolve the voltage fluctuation/violation problem or problems.
- (b) A utility must file an application for a variance from the voltage standards as specified in section (a) of this rule. A greater variation of voltage may be allowed when:
- (I) Service is furnished directly from a transmission line; or
 - (II) In a limited or extended area where customers are widely scattered and the business done does not justify close voltage regulation, such as individual customers or small groups of customers whose service from a transmission line is incidental.
- (c) The application for variance shall, in addition: 1) delineate the geographic boundaries of the service territory for which the variance is sought; and 2) demonstrate how the utility proposes to provide the best voltage regulation practicable under the circumstances. An application for variance of voltage regulation shall not be filed for communities, cities, or towns for which a transmission line was primarily built.
- (d) Each utility's tariff shall include a description of test methods, equipment, and frequency of testing used to determine the voltage of electric service furnished.
- (e) Each utility's tariff shall include a description of standard average voltage, or voltages, and frequency, or frequencies, as may be required by its distribution system, for its entire system, or for each of the several districts into which the system may be divided.

3203. Interruptions of Service.

Each utility shall keep a record of all interruptions of service (including forced, outages caused by events outside of the utility's control, scheduled, or sustained) upon its entire system or major divisions thereof, including a statement of the time, duration, and cause of any such interruption. Service Interruption mean a loss of service consistent with IEEE Standard

Number 1366-2001, *Guide for Electric Power Distribution Reliability Indices*. The record shall include the readings taken periodically from station meters. These readings shall be taken with such interval as the utility or the Commission may from time to time require. The records of interruptions of service and a statement of the operating schedules of the utility shall be open at all times to the inspection of the duly authorized representatives of this Commission. The utility shall retain all such records for three years.

3204. Accidents.

- (a) Each utility shall verbally inform the Commission, in compliance with the policies adopted from time to time by the Commission to implement this rule, within two hours (120 minutes) of each accident occurring in connection with the operation of its property, facilities or service, resulting in any deaths, serious injuries, or serious property damage. The utility shall, within 30 calendar days submit a written report to the Director of the Commission describing in detail the:
 - (I) Date, time, place, and location of the accident;
 - (II) Type of accident;
 - (III) Names of all parties involved; and
 - (IV) Nature and extent of injuries and damage.
- (b) If the utility conducts an internal investigation of an accident, referred to in paragraph (a) above, it shall make its report available to the Commission upon request by the Commission.

3205. Construction or Expansion of Generating Capacity.

- (a) No utility may commence new construction or an expansion of generation facilities or projects until the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity, or until the Commission issues such a certificate. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of generation facilities when such construction or expansion is contained entirely within the cooperative's certificated area.
- (b) Any expansion which will result in an increase in generating capacity of less than 10 megawatts, or generating plant remodeling or installation of any equipment or building space required for pollution control systems shall be deemed to occur in the ordinary course of business, and shall not require a certificate of public convenience and necessity.
- (c) For each expansion that will result in an increase in generating capacity of 10 megawatts or more, the electric utility shall no later than April 30 of each year submit a filing to the

Commission for approval of its schedule of proposed new construction or expansions for the next 3 calendar years. For each such project, the filing shall set forth the following:

- (I) The name, proposed location, and function of the project;
 - (II) The estimated cost of the project, and the manner in which it is expected to be financed; and
 - (III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation of each project.
- (d) The Commission will give notice of the filing of such data to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (e) The staff of the Commission shall review the filing and any comments received and make recommendations as follows:
- (I) For any new construction or expansion project scheduled to begin in the next calendar year which will result in an increase in generating capacity of 10 megawatts or more, the staff shall make its recommendations by May 31 of the year in which the filing is made.
 - (II) For any new construction or expansion project scheduled to begin in the second or third calendar year subsequent to the year the data is filed, which project will result in an increase in generating capacity of 10 megawatts or more, the staff shall make its recommendations by August 31 of the year in which the filing is made.
- (f) The Commission shall issue its decision on the staff's recommendation in accordance with the schedule set forth below:
- (I) For projects scheduled to begin in the next calendar year, the decision designating those generation projects that require a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.
 - (II) For projects scheduled to begin in the second or third calendar year, the decision designating those generation projects that require a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.

3206. Construction or Expansion of Transmission Facilities.

- (a) For purposes of this rule only:

- (I) "Upgrade" means to significantly increase the MVA rating of an existing facility by modifying its physical characteristics. Upgrades include, for example:
 - (A) replacement of the existing conductor of a transmission line with a larger one, with continued operation at the existing voltage;
 - (B) modification of the transmission line to the extent that the line will be operated at a higher voltage; or
 - (C) replacement of transformers, breakers, or capacitor banks with larger transformers, breakers, or capacitor banks.
- (II) "Uprate" means to achieve a higher MVA rating of an existing facility with minor or no modifications to such a facility. Uprates include, for example:
 - (A) the raising and/or strategic placement of structures in order to raise the conductor, thereby increasing clearances, permitting more current flow, and increasing the MVA rating; or
 - (B) the mere declaration of an uprated line after an engineering and physical inspection indicate that existing line clearances are sufficient to allow more current flow, thereby increasing the MVA rating.
- (b) No utility may commence new construction, including upgrades or uprates, or an expansion of transmission facilities or projects until the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity, or until the Commission issues such a certificate. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of transmission facilities when such construction or expansion is contained entirely within the cooperative's certificated area.
- (c) No later than April 30 of each year, each electric utility, including those cooperative electric associations which have voted to exempt themselves pursuant to § 40-9.5-103, C.R.S., shall submit a filing to the Commission for approval of its schedule of proposed new construction or expansions of transmission facilities within its certificated service territory for the next 3 calendar years. The annual filing shall contain a reference to all such proposed new construction or expansions, regardless of whether the utility or cooperative electric association has referenced such new construction or expansions on prior annual filings. For each such project, the filing shall set forth all of the following:

- (I) The name, proposed location, and function of the project, including:
 - (A) If the project is a substation or related facilities: the voltage level and MVA rating;
 - (B) If the project is a transmission line: the voltage, length in miles, substation termination points, and general proposed routing of the center line.
 - (II) The estimated cost of the project, and the manner in which it is expected to be financed.
 - (III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation of each project.
 - (IV) For new construction or expansions that have been previously referenced in prior annual filings, an update of the status of and any changes to such new construction or expansions.
- (d) In addition to the information provided in section (b) of this rule, the filing shall also describe those actions and techniques relating to prudent avoidance with respect to planning, siting, construction, and operation of the proposed construction or expansion. Prudent avoidance means the striking of a reasonable balance between the potential health effects of exposure to magnetic fields and the cost and impacts of mitigation of such exposure, by taking steps to reduce the exposure at reasonable or modest cost. Such steps may include, but are not limited to:
- (I) Design alternatives considering the spatial arrangement of phasing of conductors;
 - (II) Routing lines to limit exposures to areas of concentrated population and group facilities such as schools and hospitals;
 - (III) Installing higher structures;
 - (IV) Widening right of way corridors; and
 - (V) Burial of lines.
- (e) The Commission will give notice of the filing of such data to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.
- (f) The staff of the Commission shall review the filing and any comments received and make recommendations as follows:
- (I) For any new construction or expansion, the construction of which is to begin in the next calendar year, the staff

shall make its recommendations by May 31 of the year in which the filing is made.

- (II) For any new construction or expansion, the construction of which is to begin in the second or third calendar year subsequent to the year the data is filed, the staff shall make its recommendations by August 31 of the year in which the filing is made.
- (g) The Commission shall issue its decision on the staff's recommendation in accordance with the schedule set forth below:
 - (I) The decision designating the construction or expansion of transmission facilities which are to begin in the next calendar year that require a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.
 - (II) The decision designating the construction or expansion of transmission facilities which are to begin in the second or third calendar year subsequent to the year the data is file that require a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.
- (h) The utility shall install and maintain service connections from transmission extensions consistent with conditions approved in the utility's tariff.

3207. Construction or Expansion of Distribution Facilities.

- (a) Expansion of distribution facilities, as authorized in § 40-5-101, C.R.S., is deemed to occur in the ordinary course of business, and shall not require a certificate of public convenience and necessity.
- (b) The utility shall install and maintain service connections from distribution extensions consistent with conditions approved in the utility's tariff.
- (c) When a customer or potential customer requests a cost estimate of a distribution line extension, the utility shall provided a photovoltaic system cost comparison, upon meeting the following conditions:
 - (I) The customer or potential customer provides the utility with load data (estimated monthly kilowatt-hour usage) as requested by the utility to conduct the comparison; and
 - (II) The customer or potential customer's peak demand is estimated to be less than 25 kw.
- (d) In performing the comparison analysis, the utility will consider line extension distance, overhead/underground construction,

terrain, other variable construction costs, and the probability of additions to the line extension within the life of the open extension period.

- (e) For customer or potential customer whose ratio of estimated monthly kilowatt-hour usage divided by line extension mileage is less than or equal to one thousand (1,000) (i.e., Kwh/Mileage is $\leq 1,000$) the utility will provide the photovoltaic system cost comparison at no cost to the customer or potential customer. Above a ratio of 1,000 the customer or potential customer shall bear the cost of the comparison, if requested by the customer or potential customer, not the utility.

3208. Poles.

- (a) In the case of two or more utilities jointly owning or using a pole or pole line structure, each of these utilities shall mark each such pole or structure with the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark by which the ownership of such structure may be readily and definitely determined.
- (b) Each utility shall mark each such pole, post, tower, or other structure used for the support or attachment of electrical conductors, guys, or lamps, with dating nails or similar devices indicating the year in which such structure was installed. In the case of metal, concrete, or fiberglass, or other types of poles where the use of dating nails is impractical, each pole shall be either imprinted by the manufacturer with the date of its production or have permanent banding attached. Each such structure must be inspected regularly, in accordance with prudent utility practices, by the utility owning or using it, and timely repaired or replaced.
- (c) The requirements herein shall apply to all existing and future erected structures and to all changes in ownership.

3209. Service Connections.

Service connections to customer premises or property involving overhead or underground equipment shall be installed and maintained consistent with the conditions approved by the Commission in the utility's tariff. In special cases involving either overhead or underground service connections, the Commission will, if necessary, prescribe the proper charge.

3210. Line Extension.

- (a) Each utility shall have tariffs describing its line extension policies, procedures, and conditions. Specific provisions for making overhead or underground service connections, transmission and distribution line extensions shall include:
 - (I) The terms and conditions by customer class under which such connections and extensions will be made.

- (II) Provisions requiring the utility to provide service connection information to a customer, upon request, necessary to allow the customer's facilities to be connected to the utility's system.
 - (III) Provisions requiring the utility to exercise due diligence in providing the customer with an estimate of the anticipated cost of a connection or extension.
 - (IV) Just and reasonable provisions with respect to the impact upon existing customers through rates and service, including equitably allowing future customers to share costs incurred by the initial or existing customers served by a connection or extension, including a refund of customer connection or extension payments when appropriate.
 - (V) A description of specific customer categories within each customer class such as permanent, indeterminate, and temporary.
- (b) Upon request by a customer, the utility shall conduct a comparison of photovoltaic energy to any proposed distribution line extension, if a customer provides the utility with load data (estimated monthly kilowatt-hour usage) requested by the utility to conduct the comparison, and the customer's peak demand is estimated to be less than 25 KW. In performing the comparison analysis, the utility will consider line extension distance, overhead/underground construction, terrain, other variable construction costs, and the probability of additions to the line extension during the life of the open extension period. For customers whose ratio of estimated monthly kilowatt-hour usage divided by line extension mileage is less than or equal to 1,000, the utility will provide the photovoltaic system cost comparison at no cost. If the ratio is greater than 1,000, the customer shall bear the cost of the comparison, unless the comparison was requested by the utility.

3211. -3249 [Reserved].

3250. Major Events Reporting.

The following definition only applies in the context of Rules 3250-3254, unless a specific statute or rule provides otherwise.

- (a) "Major Event" means an event consistent with IEEE Standard Number 1366-2001, *Guide for Electric Power Distribution Reliability Indices*.

3252. Notification to Commission.

Each shall verbally notify the Commission of major events as soon as practicable, but not more than 12 hours after the onset of a major event.

3253. Report.

- (a) Each utility shall, within 15 days after the end of a major event, submit a written report to the Commission, which shall, at a minimum, include the following:
 - (I) The date and time when the major event began and when the utility's control center began treating the situation as a major event and the time when the utility classified the major event as closed.
 - (II) The total number of customers out-of-service over the course of the major event and the general (by city or district level) area where the major event occurred.
 - (III) The total number of affected locations by facility classification.
 - (IV) The time at which any mutual aid and non-company contractor crews were requested, arrived for duty and when were released, and the non-company contractor response(s) to the request(s) for assistance.
 - (V) A timeline profile on the number of company line crews, mutual aid crews, non-company contractor line and tree crews working on restoration activities during the duration of the major event
 - (VI) Identification of the cause(s) that created the major event.
 - (VII) A listing of any new or existing policies, procedures, and guidelines which will be or which have been implemented in order to prevent a similar reoccurrence of the major event.
 - (VIII) The report submitted shall include an affidavit of an officer of the company.

3254. Supplemental or Additional Major Event Reporting.

Each utility shall furnish to the Commission at such time and in such form as the Commission may require a report in which the utility shall specifically answer all questions propounded regarding a major event or events and provide such other information relevant to the major event and the restoration of service. These supplemental or additional reports may be required by Commission to be provided at regular intervals, to be determined by the Commission, and on a form approved by the Commission. Periodic or special reports concerning any matter about which the Commission is concerned relative to the occurrences of major events shall be furnished in a manner determined by the Commission and on a form approved by the Commission.

3255. - 3299 [Reserved].

METERS

3300. Service Meters and Related Equipment.

- (a) All meters used in connection with electric or steam metered service for billing purposes shall be furnished, installed, and maintained at the expense of the utility.
- (b) Any equipment, devices, or facilities furnished at the expense of the utility or for which the utility bears the expense of maintenance and renewal, including service meters, shall remain the property of the utility and may be removed by it at any time after discontinuance of service.
- (c) Each electric service meter shall indicate clearly the kilowatt-hours and units of demand, where applicable, for which charge is made to the customer. In cases where the register and/or chart reading must be multiplied by a constant or factor to obtain the units consumed, the factor, factors, or constant shall be clearly marked on the register or face of the meter, or in permanently attached and visible documentation at the meter location. In cases where the metering installation is of such a complex nature, that the disclosure of the constant or factor used is unsuitable to inform the customer of quantities of utility service being consumed, the utility shall attach at the meter location instructions on how the customer can receive from the utility such information.
- (d) Each steam meter shall clearly indicate the pounds of steam used for which charge is made to the customer. In cases where the register and/or chart reading must be multiplied by a constant or factor to obtain the units consumed, the factor, factors, or constant shall be clearly marked on the register or face of the meter, or in permanently attached and visible documentation at the meter location.

3301. Location of Service Meters.

As of the time of meter installation:

- (a) Meters shall be located in accordance with the pertinent rules of the utility as filed with and approved by the Commission and in accordance with accepted safe practice and electric or steam utility industry standards.
- (b) Meters shall be located so as to be easily accessible for reading, testing, and servicing in accordance with accepted safe practice and electric or steam utility industry standards.

3302. Service Meter Accuracy.

- (a) No service watt-hour meter that has an incorrect register constant, test constant, gear ratio or dial train, or that registers upon no load ("creeps"), shall be placed in service or

allowed to remain in service without proper adjustment and correction.

- (b) No service watt-hour meter that has an error in registration of more than plus or minus two percent, either at light load or at heavy load, shall be placed in service. Demand meters may have an allowable error of not more than two percent of full-scale deflection, except that the allowable error for thermal type meters may be three percent. Whenever a meter is found to exceed these limits, it must be adjusted or replaced.
- (c) Meters used with instrument transformers or current transformers shall be adjusted or replaced so that the overall accuracy of the metering installation meets the requirements of this rule.
- (d) No steam service meter that has an error in registration of more than plus or minus two percent shall be placed in service. Whenever a meter is found to exceed these limits, it must be adjusted or replaced.

3303. Meter Testing Equipment and Facilities.

- (a) Each utility furnishing metered electric or steam service shall, unless specifically exempted by the Commission, provide such meter laboratory, standard meters, instruments, and other equipment and facilities as may be necessary to make the tests required by these rules. Such equipment and facilities shall be acceptable to the Commission and shall be available at all reasonable times for inspection by the Commission's authorized representatives.
- (b) Each utility shall make such tests as are prescribed under these rules with such frequency, in such manner, and at such places as may be approved by this Commission. Each utility shall file an application for approval of such testing practices. The application shall include:
 - (I) A description of the test methods employed and the frequency of tests or observations for determining voltage of electric service furnished or steam consumed.
 - (II) A description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.
 - (III) Rules covering testing and adjustment of service meters when installed and periodic tests after installation.
 - (IV) Supporting information and justification for the items listed in subparagraphs (I) through (III) of this paragraph.

- (c) Revisions to any portion of an approved application identified in paragraph (b) of this rule shall only be accomplished by the filing and approval of a new application.
- (d) Each utility furnishing metered electric service shall provide such portable indicating electrical testing instruments or portable watt-hour meters of suitable range and type for testing switchboard instruments, recording volt-meters, service watt-hour meters, and other electrical instruments in use, as may be deemed necessary and satisfactory by the Commission.
- (e) Rotating standards that are used by the utility in testing service meters shall be tested for accuracy by using reference standards. If the reference standards used by the utility are service type watt-hour meters, such watt-hour meters must be permanently mounted in the utility's laboratory and may be used for no other purpose than testing rotating standards.
- (f) Reference standards shall be submitted at least once each year to a laboratory of recognized standing, for the purpose of testing and adjustment. A utility that maintains its own standardizing laboratory will be permitted to test and certify its own reference standards, provided the instruments and methods used are acceptable to the Commission.
- (g) When in use, commutator-type rotating standards shall be compared with the reference standards in accordance with the manufacturer's recommended frequency. When in use, induction-type rotating standards, shall be compared with the reference standards in accordance with the manufacturer's recommended frequency. If any working rotating standard tests within plus or minus one percent error at any load at which the standard will be used, the standard may be adjusted by comparison with the utility's reference standards. However, if any working rotating standard test in error of more than plus or minus one percent, such standards shall be tested, adjusted, and certified in a standardizing laboratory of recognized standing. If a utility is exempted as provided in paragraph (a) of this rule, it shall have its working rotating standards tested by a standardizing laboratory of recognized standing at least once a year. Each rotating standard shall at all times be accompanied by a certificate or calibrating card signed by the standardizing laboratory, giving the date when it was last certified and adjusted.
- (h) When in use, all electrical testing equipment, such as voltmeters, ammeters, oscilloscopes, function generators, fluke multimeters, radian electronic watt-hour standards, and wattmeters shall have their calibration checked annually or more frequently if specified by the manufacturer. Calibration certifications shall be kept on site for all instruments requiring an as found/as left date sheet, for a period of seven years or until the instruments are recertified by a laboratory of recognized standing. All instruments will have a tag affixed stating the date calibrated and the date the instrument is due

for recertification. If an instrument is found to be out of the manufacturer's specifications, the instrument will be calibrated and certified to the manufacturer's specifications by a laboratory of recognized standing. Upon request from a customer or other department, a copy of the certification letter and date sheet will be provided for the instrument in question.

- (i) The utility shall keep records of certification and calibrations for all testing equipment required by this rule for the life of the equipment.
- (j) In its tariff, each utility shall include a description of its meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.

3304. Scheduled Meter Testing.

- (a) Each utility shall test service meters in accordance with the schedule in this rule or in accordance with a sampling program approved by the Commission. The utility shall file an application to request approval of such sampling programs. Every service meter must be tested and adjusted either before installation or no later than 60 days thereafter, to ensure that it registers accurately and conforms to the requirements of rule 3302. In addition, every service meter must be tested on a periodic basis, as follows:

- (I) Alternating current watt-hour meters:

- (A) Polyphase meters used with instrument transformers, four years.
- (B) Single-phase meters used with instrument transformers, eight years.
- (C) Self-contained polyphase meters, six years.
- (D) Self-contained single-phase meters and three wire network meters, eight years.

- (II) Direct current watt-hour meters:

- (A) Up to and including 6-KW, 42 months.
- (B) Over 6 KW up to and including 100 KW, 18 months.
- (C) Over 100 KW, 12 months.

- (III) Var-hour meters and lagged demand meters must be tested on the same schedule as for associated watt-hour meters in section (a) or (b) of this rule. Integrated (block interval) demand meters, including demand registers and associated control devices, must be tested on the same

schedule as for associated watt-hour meters in section (a) or (b) of this rule, but at least every six years.

- (IV) Steam service meters shall be tested every five years.
- (V) In its tariff, each utility shall include a description of the utility's practices concerning
 - (A) testing and adjustment of service meters at installation, and
 - (B) periodic testing after installation.

3305. Meter Testing Upon Request.

- (a) Each utility furnishing metered electric or steam service shall make a test of the accuracy of any electric or steam service meter upon request of a customer. The test shall be conducted free of charge if the meter has not been tested within the previous twelve months and the customer agrees to accept the results of the test for the purposes of any dispute regarding the meter's accuracy. The utility shall provide a written report of the test results to the customer and maintain a copy on file for at least two years.
- (b) Upon written request by a customer, the Commission will send a trained employee to witness the test of any service meter as performed by the utility. The request must be accompanied by payment of the applicable fee, as follows:
 - (I) For continuous current and single-phase meters operating at 480 volts or less, up to and including 200 amperes rated capacity of meter element, \$50 each.
 - (II) For single-phase meters above 480 volts and for polyphase meters with or without instrument transformer, \$50 each.
 - (III) For steam service meters, \$50 each.
- (c) This rule and the schedule of fees apply only when there is a dispute between the customer and the company regarding the accuracy of a meter. If the meter is found to be fast beyond the limits prescribed in rule 3302, the fee shall be reimbursed to the customer by the utility.
- (d) In its tariff, each utility shall include any fees associated with customer-requested meter testing within twelve months of a prior test.

3306. Records of Tests and Meters.

- (a) A utility shall maintain a record for each meter owned or used by the utility, showing the date of purchase, manufacturer's serial number, record of the present location, and date and results of

the last test performed by the utility, which record shall be retained for the life of the meter.

- (b) Whenever a meter is tested either on request or upon complaint, the test record shall include the information necessary for identifying the meter, the reason for making the test, the reading of the meter if removed from service, the result of the test, together with all data taken at the time of the test in a sufficiently complete form to permit the convenient checking of the method employed and the calculations made. Such record shall be retained for at least two years.

3307. [Reserved].

3308. [Reserved].

3309. Meter Reading.

- (a) Upon the customer's request, the utility shall provide written documentation identifying the date the customer's meter was read and the total usage expressed in kilowatt-hours or other unit of service recorded. Each utility supplying metered service, on request, shall explain to its customers its method of reading meters.
- (b) In its tariff, each utility shall include a clear statement describing when meters will be read by the utility and the circumstances, if any, under which the customer must read the meter and submit the data to the utility. This statement shall specify in detail the procedure that the customer must follow, and if special conditions apply to certain classes of service, such as residential, commercial, industrial or seasonal.

3310. - 3399 [Reserved].

BILLING AND SERVICE

3400. Billing Information and Procedures.

- (a) All bills issued to customers for metered service furnished shall show:
 - (I) The dates and meter readings beginning and ending the period during which service was rendered;
 - (II) An appropriate rate or rate code identification;
 - (III) Net amount due;
 - (IV) The date that payment is due, which shall not be any earlier than 15 days subsequent to the mailing or delivery of the bill;

- (V) A distinct marking to identify an estimated bill;
 - (VI) All other essential facts upon which the bill is based, including factors and constants, as applicable;
 - (VII) Any unregulated charges, if applicable. A utility that bills for unregulated services or goods shall allocate any partial payments first to regulated charges and then to unregulated charges or non-tariffed charges; and
 - (VIII) Any transferred amount, or balance from any account other than the customer's current account. A utility that transfers balances in this manner shall file benefit of service transfer policies and criteria with the Commission in the Company's tariff.
- (b) Upon a request from a customer and where it is technically feasible, be available via electronic billing (e-billing) in lieu of a type or machine printed billing.
 - (c) Each utility shall maintain customer billing records for a minimum of two years.

3401. Adjustments for Meter and Billing Errors.

- (a) A utility shall adjust customer charges for electricity or steam incorrectly metered or billed as follows:
 - (I) When, upon any meter accuracy test, a meter is found to be running slow in excess of error tolerance levels allowed under rule 3302, the utility may charge for one-half of the weighted average error for the period dating from the discovery of the meter error to the previous meter test, with such period not to exceed two years. Weighted average error, as used in this paragraph, is the arithmetic average of the percent error at light load and at heavy load giving the heavy load error a weight of four and the light load error a weight of one.
 - (II) When, upon any meter accuracy test, a meter is found to be running fast in excess of error tolerance levels allowed under rule 3302, the utility shall refund for one-half of the weighted average error for the period dating from the discovery of the meter error to the previous meter test, with such period not to exceed two years. Weighted average error, as used in this paragraph, is the arithmetic average of the percent error at light load and at heavy load giving the heavy load error a weight of four and the light load error a weight of one.
 - (III) When a meter does not register, registers intermittently, or partially registers for any period, the utility may equitably estimate a charge for the electricity or steam used based on amounts metered to the customer over similar

periods in previous years. The period for which the utility charges the estimated amount shall not exceed two years.

- (IV) In the event of under-billings not provided for in subparagraphs (I) or (III) of this rule, such as an incorrect multiplier, register, or billing error, the utility may charge for the period during which the under-billing occurred, with such period not to exceed two years.
- (V) In the event of over-billings not provided for in subparagraph (II) of this rule, such as an incorrect multiplier, register, or billing error, the utility shall refund for the period during which the over-billing occurred with such period not exceeding two years.
- (b) In the event of an over-billing, the customer may elect to receive the refund as a credit to future billings or as a one-time payment. If the customer elects a one-time payment, the utility shall make the refund within 30 days. Such over-billings shall not be subject to interest.
- (c) In the event of under-billing, the customer may elect to enter into a payment arrangement on the under-billed amount equal in length to the time for which the under-billing was identified as allowed in rule 3403(d). Such under-billings shall not be subject to interest.

3402. Customer Deposits.

- (a) A utility shall process an application for utility service made either orally or in writing, applying nondiscriminatory criteria for the requirement of a deposit prior to installation of service.
- (b) If detailed billing records are available for a new or existing customer who previously received service from the utility, the utility shall not require the customer to make new or additional deposits to guarantee payment of current bills, unless the records indicate recent or substantial delinquencies. All other customers shall be treated uniformly within each rate classification with respect to deposit requirements, pursuant to the utility's tariff.
- (c) A utility shall not require a deposit from an applicant or customer who provides written documentation of 12 consecutive months' good credit history from a utility which the applicant or customer received similar services within the past thirty (30) days.
- (d) If a utility uses credit scoring, prior payment history with the utility, or prior payment history with a like utility as criteria for establishing the need for a deposit, the utility shall

include in its tariff the specific evaluation criteria that triggers the need for a deposit.

- (e) If a utility denies an application for service or requires a deposit as a condition of providing service, the utility shall provide an explanation to the applicant or customer stating the reasons why the application for service has been denied or why a deposit is required. The utility shall advise the applicant or customer of the right to file an informal complaint regarding the utility's decision to the External Affairs section of the Commission.
- (f) No utility shall require any security other than a cash deposit to secure payment for utility services, or a third-party guarantee of payment in lieu of a cash deposit. The customer may mail or deliver to the utility the third-party guarantee form, signed by both the customer and the third-party guarantor. In no event shall the furnishing of utility services or extension of utility facilities or any indebtedness in connection therewith result in a lien, mortgage, or other security interest in any real or personal property of the customer, unless such indebtedness has been reduced to a judgment.
- (g) Should a customer or applicant exercise use of a third-party guarantee form in lieu of a deposit, the guarantee shall remain in effect until terminated either in writing by the guarantor or until the customer has established a satisfactory payment record for 12 consecutive months.
- (h) A deposit shall not exceed an amount equal to an estimated 90 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 60 days' bill of the customer. The deposit 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.
- (i) Each utility receiving deposits shall maintain records showing:
 - (I) The name of each customer making a deposit;
 - (II) The amount and date of the deposit;
 - (III) Each transaction, such as the payment of interest or interest credited, concerning the deposit; and
 - (IV) Each premises occupied by the customer while the deposit is retained by the utility.
- (j) In its tariffs, each utility shall state its customer deposit policy for establishing service, explaining when a deposit will be required and when it will be returned.

- (k) Each utility shall issue a receipt to every customer from whom such deposit is received. However, no utility shall refuse to return a deposit or any balance to which a customer may be entitled solely upon the basis that the customer is unable to produce a receipt.
- (l) The making of a deposit shall not relieve any customer from payment of current bills as they become due, and the utility is not required to apply any deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (m) Simple interest shall be paid by the utility upon a deposit at the percentage rate per annum as calculated by the Staff of the Commission and in the manner provided in this rule, payable upon the return of the deposit, or annually at the request of the customer. The utility shall pay simple interest upon each deposit, earned from the date the deposit is received by the utility to the date the customer is paid. Interest payments, at the option of the utility, may be paid directly to the customer or by a credit to the customer's account. Simple interest to be paid on a deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the twelve monthly average rates of interest expressed in percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the *Federal Reserve Bulletin*, by the Board of Governors of the Federal Reserve System. Each year, the Staff of the Commission shall compute the interest rate to be paid. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is less than 25 basis points, the existing customer deposit interest rate shall continue for the next calendar year. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is 25 basis points or more, the newly calculated customer deposit interest rate shall be used. The Commission shall send a letter to each utility stating the rate of interest to be paid on deposits during the next calendar year. Annually following receipt of Staff's letter, if necessary, each utility shall file by advice letter, or application, as appropriate, a revised tariff, effective the first day of January of the following year, or an alternative date set by the Commission, containing the new rate of interest to be paid upon customers' deposits, except when there is no change in the rate of interest to be paid on such deposits.
- (n) All utilities, including such cooperative electric associations as may elect to be so governed, shall pay all unclaimed monies as defined in § 40-8.5-103(5), C.R.S., plus associated interest, that remains unclaimed for more than two years to the energy assistance organization. "Unclaimed monies" shall not include undistributed refunds for overcharges subject to other statutory provisions and credits to existing customers from cost adjustment mechanisms.

- (I) Monies shall be deemed unclaimed and presumed abandoned when left with the utility for more than two years after termination of the services for which the deposit or advance was made, or for more than two years after the deposit or advance becomes payable to the customer pursuant to a final order of the Commission establishing the terms and conditions for the return of such deposit or advance and the utility has made reasonable efforts to locate the customer.
- (II) A utility must pay interest on a deposit from the time it receives a security deposit, or from the time a construction advance is deemed owed to the customer pursuant to the utility's extension policy, until it is paid to the energy assistance organization. If a deposit is timely paid to the energy assistance organization, the interest rate shall be 6%. If a deposit is not timely paid, the interest rate shall be 12%.
- (III) A utility shall resolve all inquiries regarding a customer's undistributed refund or unclaimed funds, and shall not refer such inquiries to the energy assistance organization.

3403. Installment Payments.

- (a) A utility shall have, in its tariff, an installment payment plan which permits a customer to make installment payments:
 - (I) To pay charges from past billing periods arising solely from events under the utility's control such as meter malfunctions, billing errors, utility meter reading errors, or failures to read the meter, except where the customer refuses to read the meter and it is not readily accessible to the utility. Such installment payments may extend over a period equal in length to that during which the errors were accumulated, and shall not bear interest.
 - (II) If the customer pays at least 10 percent of the amount shown on the notice and enters into an installment payment arrangement on or before the expiration date of the notice of discontinuance.
 - (III) If the customer pays at least 10 percent of any amount more than 30 days past due and enters into an installment payment arrangement on or before the last day covered by a medical certification. A customer that has already entered but broken an arrangement prior to receiving a medical certification must pay all amounts that were due up to that date, and resume the installment payment arrangement.
 - (IV) If the customer pays at least any collection and reconnection charges and enters into an installment payment arrangement, if service has been discontinued, unless the

service was discontinued because the customer breached a prior payment arrangement.

- (b) Installment payment arrangements must include any and all of the following amounts as may be applicable at the time the customer requests a payment arrangement:
 - (I) The unpaid remainder of the amount shown on the notice;
 - (II) Any amounts not included in the amount shown on the notice which have since become more than 30 days past due;
 - (III) All current charges, contained in any bill which is past due but is less than 30 days past the due date;
 - (IV) Any new charges, contained in any bill which has been issued but is not past due;
 - (V) Any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill;
 - (VI) Any deposit, whether already billed, billed in part, or required by the utility's tariff due for discontinuance or delinquency or to establish initial credit, other than those required as a condition of initiating service; and
 - (VII) Any other charges or fees provided in the utility's tariff, whether or not they have appeared on a regular monthly bill, including but not limited to miscellaneous service charges, investigative charges, and insufficient-check charges.
- (c) The utility shall provide the customer with a copy of this rule and a statement describing the payment arrangement within 10 days of entering into a payment arrangement.
- (d) An installment payment plan arrangement shall consist of equal monthly installments, for a term selected by the customer not to exceed 6 months. In the alternative, the customer may choose a modified budget billing, levelized payment or similar tariffed payment arrangement, in which the total due shall be added to the preceding year's total billing to the customer's premises, modified for any base rate or cost adjustment increases. The resulting amount shall be divided and billed in 11 equal monthly budget billing payments, followed by a settlement billing in the twelfth month, or follow other payment setting practices consistent with the tariffed plan available.
- (e) The first monthly installment payment shall be due, together with the new charges unless the new charges have been made part of the arrangement amount, on the due date of the new charges. Succeeding installment payments shall be due, together with the new charges, on the due date of the new charges. Any installment

or budget billing payment not paid on the due date of the new charges shall be considered in default. Any new charges that are not paid by the due date shall be considered past due for purpose of this rule only, excluding those circumstances covered in rule 3403(a)(I).

3404. Service, Rate, and Usage Information.

- (a) Each utility shall inform each customer of any change proposed or made in any term or condition of its service that will affect the quality of the service.
- (b) The utility must also provide customers with the following information upon request:
 - (I) A clear and concise summary of the existing rate schedule applicable to each major class of customers for which there is a separate rate;
 - (II) An identification of any classes whose rates are not summarized;
 - (III) A clear and concise explanation of the existing rate schedule applicable to such consumer within 10 days of a customer's request, or within 60 days of the commencement of service if it is a new customer.
 - (IV) A clear and concise statement of the customer's actual consumption or degree-day adjusted consumption of electricity for each billing period during the prior year, unless such consumption data is not reasonably ascertainable by the utility; and
 - (V) Any other information and assistance as may be reasonably necessary to enable customers to secure safe and efficient service.
- (c) Information provided under this rule must be transmitted through a method that will assure receipt by each customer including bill inserts, or periodic direct mail.

3405. Component and Source Disclosures.

- (a) By June 1 of each year, each utility with a total system load of greater than 100 megawatts shall file an application for approval of a proposed customer information statement, including explanatory information to accompany the statement, disclosing the information described in section (b) of this rule. The application must be accompanied by documentation supporting the calculations used to determine the percentages set forth in the disclosure.

- (b) Each utility shall provide the following itemized information to its customers in April and October of each year, in the form of a bill insert or a separate mailing:
 - (I) The percentage components, which include fixed and variable components, of the total average delivered price of electricity, residential or commercial, as applicable, attributable both to power supply and to power delivery, for the previous calendar year. Power supply shall include all generation, purchase power, and non-utility transmission components. Power delivery shall include all utility transmission and distribution components.
 - (II) The power supply mix listing the fuel sources, expressed as a percentage of average annual power acquired and generated by the utility for the previous calendar year. The utility shall make every reasonable effort to identify and include all power supplied by non-utility generation sources in the power supply fuel source composition to the extent that they are identifiable. Those sources which are not identifiable shall be listed as "imported, fuel source unknown." Fuel mixture information must use the following fuel type categories in the following order, rounded to the nearest tenth of one percent: biomass and waste; coal; geothermal; hydroelectric; natural gas; nuclear; solar; wind; and imported, fuel source unknown.

- (c) Price components and sources of power supply shall appear together in a format no larger than one page and shall be clearly legible, as follows:

ELECTRICITY FACTS																							
<p>Price Components</p> <p>Percentage components for an average monthly residential* electric bill.</p>	<table> <tr> <th></th><th>Residential * Service</th></tr> <tr> <td>Power Supply (Generation & Purchase)</td><td>xx%</td></tr> <tr> <td>Power Delivery (Transmission & Distribution)</td><td>xx%</td></tr> </table>		Residential * Service	Power Supply (Generation & Purchase)	xx%	Power Delivery (Transmission & Distribution)	xx%																
	Residential * Service																						
Power Supply (Generation & Purchase)	xx%																						
Power Delivery (Transmission & Distribution)	xx%																						
<p>Power Supply Mix (Generation & Purchase)</p> <p>Fuel sources used in power generation and purchase for the calendar year xxxx for all utility customers.</p>	<table> <tr> <th>Fuel Type</th><th>%</th></tr> <tr> <td>Bio-mass and Waste</td><td>x.x%</td></tr> <tr> <td>Coal</td><td>x.x%</td></tr> <tr> <td>Geothermal</td><td>x.x%</td></tr> <tr> <td>Hydroelectric</td><td>x.x%</td></tr> <tr> <td>Natural Gas</td><td>x.x%</td></tr> <tr> <td>Nuclear</td><td>x.x%</td></tr> <tr> <td>Solar</td><td>x.x%</td></tr> <tr> <td>Wind</td><td>x.x%</td></tr> <tr> <td>Imported, Fuel Source Unknown</td><td>x.x%</td></tr> <tr> <td>Total</td><td>100%</td></tr> </table>	Fuel Type	%	Bio-mass and Waste	x.x%	Coal	x.x%	Geothermal	x.x%	Hydroelectric	x.x%	Natural Gas	x.x%	Nuclear	x.x%	Solar	x.x%	Wind	x.x%	Imported, Fuel Source Unknown	x.x%	Total	100%
Fuel Type	%																						
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Nuclear	x.x%																						
Solar	x.x%																						
Wind	x.x%																						
Imported, Fuel Source Unknown	x.x%																						
Total	100%																						

3406. Discontinuance of Service.

- (a) No utility shall discontinue the service of any customer for any reason, other than nonpayment, fraud or subterfuge, service diversion, equipment tampering, safety concerns, exigent circumstances, discontinuance ordered by any appropriate governmental authority, or properly discontinued service being restored by someone other than the utility when the original cause for proper discontinuance has not been cured.
- (b) Service shall not be discontinued for nonpayment of:
- (I) Any amount which has not appeared on a regular monthly bill, or which is not past due;
- (II) Any amount due on another account presently or previously held or guaranteed by the customer, or with respect to which the customer received service, unless the amount has

first been transferred to an account which is for the same class of service, or which the customer has agreed will secure the other account. Any amount so transferred shall be considered "due" on the regular due date of the bill on which it first appears and shall be subject to notice the same as if it had been billed for the first time;

- (III) Any amount due on any other account on which the customer is or was neither the customer of record nor a guarantor, nor any amount due from a previous occupant of the premises, unless the customer is or was obtaining service through fraud or subterfuge, such as obtaining service in the name of another party by an applicant whose account is delinquent;
 - (IV) Any amount due on any account for which the present customer is or was the customer of record, if another person established the account through fraud or subterfuge without the customer's knowledge or consent;
 - (V) Any delinquent amount, unless the utility can supply detailed billing records from the time the delinquency occurred; or
 - (VI) Any debt except that incurred for service rendered by the utility in Colorado.
- (c) If the utility discovers any connections or devices installed on the customer's premises, including any energy-consuming devices connected on the line side of the utility's meter, which would prevent the meter from registering the actual amount of energy used, it may:
- (I) Remove or correct such devices or connections and leave written notice at the premises, advising the customer of the violation, the steps taken by the utility to correct it, and that the customer may be billed for any estimated energy consumption not properly registered; or
 - (II) Provide the customer written notice that the devices or connections must be removed within 10 days, and that the customer may be billed for any estimated energy consumed but not properly registered.
- (d) If the utility discovers evidence that any equipment has been tampered with or service diverted, it must provide the customer written notice of the discovery, the steps the utility will take to determine whether non-registration of energy has or will occur, and that the customer may be billed for any estimated energy consumption not properly registered.
- (e) No utility shall discontinue any service for any reason other than safety concerns or exigent circumstances:

- (I) If a customer at any time tenders full payment in accordance with the terms and conditions of the notice of discontinuance to a utility employee authorized to receive payment, including any employee dispatched to discontinue service. Payment of a charge for a service call shall not be required to avoid discontinuance.
- (II) If a residential customer pays, on or before the expiration date of the notice of discontinuance, at least one-tenth of the amount shown on the notice and enters into an installment payment arrangement with the utility, as provided in rule 3403.
- (III) Between 12 Noon on Friday and 8 a.m. the following Monday, or between 12 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday, or between 12 Noon on the day prior to and 8:00 a.m. on the day following any day during which the company's local office is not open.
- (IV) If discontinuance would aggravate an existing medical condition or create a medical emergency for the customer or a permanent resident of the customer's household, as evidenced by a written medical certification from a Colorado-licensed physician or health practitioner acting under a physician's authority. Such certification shall show clearly the name of the customer or individual whose illness is at issue, Colorado medical identification number, phone number, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical emergency. Such certification shall be incontestable by the utility as to medical judgment, although the utility may use reasonable means to verify the authenticity of such certifications. A medical certification is valid to prevent discontinuance of service for 60 days. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this rule 3406(e)(IV) only once in any twelve consecutive months.

3407. Notice of Discontinuance.

- (a) The utility must provide written notice by first class mail, hand delivery, or if the customer receives e-billing an electronic notice at least 10 days in advance of any proposed discontinuance of service, except in cases of broken arrangements as provided in section (f) of this rule. The notice must be conspicuous and in easily understood language, and the heading shall contain, in capital letters, the following warning:

THIS IS A FINAL NOTICE OF DISCONTINUANCE OF
UTILITY SERVICE AND CONTAINS IMPORTANT
INFORMATION ABOUT YOUR LEGAL RIGHTS AND REMEDIES.
YOU MUST ACT PROMPTLY TO AVOID UTILITY SHUT OFF.

- (b) The body of the notice of discontinuance under section (a) of this rule must advise the customer:
 - (I) The reason for the discontinuance of service and what particular rule has been violated, if any;
 - (II) The amount past due for utility service, deposits, or other regulated charges, if any;
 - (III) The date by which an installment payment arrangement must be entered into or full payment must be received to avoid discontinuance;
 - (IV) How and where the customer can pay or enter into an installment payment arrangement plan prior to the discontinuance of service;
 - (V) That a customer may avoid discontinuance of service by paying, on or before the expiration date of the notice, at least one-tenth of the amount shown on the notice and entering into an installment arrangement with the utility to pay the remaining past due balance in equal monthly installments, according to rule 3403;
 - (VI) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency;
 - (VII) That the customer has the right to dispute the discontinuance directly with the utility by contacting the utility, and how to contact the utility toll-free from within the utility's service area;
 - (VIII) That the customer has the right to file an informal complaint with the External Affairs section of the Commission in writing, by telephone, or in person, along with the Commission's address and toll-free telephone number;
 - (IX) That the customer has the right to hearing by filing a formal complaint, in writing, with the Commission pursuant to Rule 1302;
 - (X) That the customer has a right to file a motion for an order to the utility not to disconnect service pending the outcome of the hearing on the formal complaint, and that the Commission may grant the motion upon such terms as it deems reasonable, including but not limited to the posting of a deposit or bond with the utility or timely payment of all undisputed charges;
 - (XI) That if service is discontinued for non-payment, service may be restored if a customer pays any reconnection and collection charges as may be specifically required according

to the utility's tariff and enters into an installment payment arrangement or the customer provides a medical certification; and

- (XII) Of federal, state, local government, non-profit or community agencies or organizations which the utility believes may provide customer assistance or benefits relating to utility service.
- (c) The utility shall also provide written notice by first class mail or hand delivery to any third-party the customer has designated in writing to receive notices of discontinuance or broken arrangement.
- (d) A discontinuance notice shall be printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least 10 percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.
- (e) The terms of an installment payment plan arrangement, including a modified budget billing arrangement, must be explained and offered to each customer who contacts the utility in response to a notice of discontinuance.
- (f) Following the issuance of the notice of discontinuance, and at least 24 hours prior to discontinuance, the utility must attempt to give notice of the proposed discontinuance in person or by telephone both to the customer and to any third party the customer has designated in writing to receive such notices. If the utility attempts to notify the customer in person but fails, it shall leave written notice of the attempted contact and its purpose.
- (g) If the customer has entered into an installment payment arrangement, and defaults or allows a new bill to remain unpaid past its due date, the utility shall provide, by first class mail or hand delivery, a written notice:

NOTICE OF BROKEN ARRANGEMENT

The body of the notice must advise the customer:

- (I) That the utility may discontinue service if it does not receive the monthly installment payment within 10 days after the notice is sent or delivered;
- (II) That the utility may discontinue service if it does not receive payment for the current bill within 30 days after its due date;
- (III) That if service is discontinued, the utility may refuse to restore service until all amounts more than 30 days past

due have been paid, together with any collection or reconnection charges; and

- (IV) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency;
 - (V) The utility is not required to provide notice under this rule in situations involving safety concerns, or exigent circumstances, or if discontinuance is ordered by any appropriate governmental authority, or if service, having been already properly discontinued, has been restored by someone other than the utility and the original cause for discontinuance has not been cured.
- (h) Where the utility knows that the service to be discontinued is used by customers in multi-unit dwellings or places of business, or a cluster of dwellings or places of business, and the utility service is recorded on a single meter used either directly or indirectly by more than one unit, the utility shall issue notice as required in sections (a) and (b) of this rule, except that:
- (I) The notice period shall be 30 days;
 - (II) Such notice also may include the current bill;
 - (III) The utility shall also provide written notice to each individual unit, stating that a notice of discontinuance has been sent to the party responsible for the payment of utility bills for the unit, and that the occupants of the units may avoid discontinuance by paying the next new bill in full within 30 days of its issuance and successive new bills within 30 days of issuance; and
 - (IV) The utility must post the notice in at least one of the common areas of the affected location.

3408. Restoration of Service.

- (a) Any service already discontinued must be restored without additional fee or charge if it was not properly discontinued or restored as provided in rules 3406 and 3408.
- (b) Service must be restored within 24 hours (excluding weekends and holidays), or within 12 hours if the customer pays any necessary after-hours charges established in tariffs, unless prevented by safety concerns, or exigent circumstances, if the customer:
 - (I) Pays in full the amount shown on the notice, plus any deposit and/or fees as may be specifically required by the utility's tariff in the event of discontinuance of service;
 - (II) Pays any reconnection and collection charges specifically required by the utility's tariff, enters into an

installment payment arrangement and makes the first installment payment, unless the cause for discontinuance was the customer's breach of such an arrangement;

- (III) Presents a medical certification, as provided in rule 3406(e)(IV); or
- (IV) Demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

3409. Refund Plans.

- (a) Contents. The application for approval of a refund plan shall include, in the following order and specifically identified, the following information either in the application or in the appropriately identified attached exhibits:
 - (I) All the information required in rules 3002(b) and (c);
 - (II) A detailed description of the proposed refund plan, including the type of utility service involved, the service area involved, and the dollar amount of the proposed refund. The interest rate on the refund shall be the current interest rate in the applicant's customer deposits tariff.
 - (III) The date the applicant proposes to start making the refund, which must be more than 60 days after the filing of the application, the date by which the refund will be completed, and the means by which the refund is proposed to be made.
 - (IV) A reference by docket number, decision number, and date of any Commission decision requiring the refund or, if the refund is to be made because of receipt of monies by the applicant under the order of another state or federal agency, a copy of the order.
 - (V) A statement describing in detail the extent to which the applicant has any financial interest in any other company involved in the refund plan.
 - (VI) A statement showing accounting entries under the Uniform System of Accounts.
 - (VII) A statement that if the application is granted, the applicant will file an affidavit establishing that the refund has been made in accordance with the Commission's decision.
- (b) All utilities, including such cooperative electric associations as may elect to be so governed, shall pay 90% of all undistributed balances, plus associated interest, to the energy assistance organization. A refund is deemed undistributed if,

after good faith efforts, a utility is unable to find the person entitled to a refund within the period of time fixed by the Commission in its decision approving the refund plan.

- (I) A utility must pay an undistributed refund to the energy assistance organization within four months after the refund is deemed undistributed pursuant to the refund plan approved by the Commission. A utility must pay interest on undistributed refunds from the time it receives the refund until it is paid to the energy assistance organization. If the refund is timely paid to the energy assistance organization, the interest rate shall be equal to the interest rate set by the Commission pursuant to rule 3402(g). If the refund is not timely paid, the interest rate shall be equal to the interest rate set by the Commission pursuant to rule 3402(g) plus an additional six percent.
- (II) Whenever a utility makes a refund, it shall provide written notice to those customers that it believes may be MMOs. The notice shall contain:
 - (A) the definition of MMO, as defined in these rules; and
 - (B) a statement regarding an MMO's obligation
 - (i) to notify its end users of their right to claim, within 90 days, their proportionate share of the refund, and
 - (ii) after 90 days, if the unclaimed balance exceeds \$100, to remit the unclaimed balance to the energy assistance organization .
- (III) A utility shall resolve all inquiries regarding a customer's undistributed refund or unclaimed funds, and shall not refer such inquiries to the energy assistance organization.

3410. -3499 [Reserved].

UNREGULATED GOODS AND SERVICES

3500. - 3599. [Reserved].

LEAST COST PLANNING

3600. Special Definitions.

The following definitions apply only to rules 3600 - 3615:

- (a) "Availability factor" means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.
- (b) "Annual capacity factor" means the ratio of the net energy produced by a generating facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year-round.
- (c) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.
- (d) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, with end-use services of such customers held constant.
- (e) "Energy efficiency" means increases in energy conservation, reduced demand or improved load factors resulting from hardware, equipment, devices, or practices that are installed or instituted at a customer facility. Energy efficiency measures can include fuel switching.
- (f) "Heat Rate" means the ratio of energy inputs used by a generating facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kilowatt-hours.
- (g) "Least-cost resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.
- (h) "Net present value of rate impact " means the current worth of the average annual rates associated with a particular resource portfolio, expressed in dollars per kilowatt-hour in the year the plan is filed. The net present value of rate impact for a particular resource portfolio is first calculated by discounting the total annual revenue requirement by the appropriate discount rate. The discounted revenue requirement is then divided by the total utility kilowatt-hour requirement for that year and averaged across the years of the planning period. The total annual revenue requirement for each year of the planning period is the total expected future revenue requirements associated with a particular resource portfolio.
- (i) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of rate impact for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.
- (j) "Renewable resource" means any facility, technology, measure, plan or action utilizing a renewable "fuel" source such as wind; solar; biomass; geothermal; municipal, animal, waste-tire or

other waste; or hydroelectric generation of twenty megawatts or less.

- (k) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific resources to meet projected electric system demand. The resource acquisition period begins from the date the utility files its plan with the Commission.
- (l) "Resources" means supply-side resources, energy efficiency, or renewable resources used to meet electric system requirements.
- (m) "Supply-side resource" means a resource that can provide electrical energy or capacity to the utility. Supply-side resources include utility-owned generating facilities, and energy or capacity purchased from other utilities and non-utilities.
- (n) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3601. Overview.

The purpose of these rules is to establish a process to determine the need for additional electric resources by Commission jurisdictional electric utilities, pursuant to the power to regulate public utilities delegated to the Commission by Article XXV of the Colorado Constitution and by §§ 40-2-123, 40-3-102, 40-3-111, and 40-4-101, C.R.S. It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. This process is intended to result in least-cost resource portfolios, taking into consideration projected system needs, reliability of proposed resources, expected generation loading characteristics, and various risk factors. The rules are intended to be neutral with respect to fuel type or resource technology.

3602. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (i.e. rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3603. Least-Cost Resource Plan Filing Requirements.

Jurisdictional electric utilities, as described in rule 3602, shall file a least-cost resource plan (plan) pursuant to these rules on or before October 31, 2003, and every four years thereafter. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing. Each utility shall file an original and fifteen copies of the plan with the Commission.

3604. Contents of the Least-Cost Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility shall provide work-papers to support the information contained in the plan. The plan shall include:

- (a) A statement of the utility-specified resource acquisition period, and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire least-cost plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of base-load, intermediate and peaking needs of the utility system;
- (b) An annual electric demand and energy forecast developed pursuant to rule 3606;
- (c) An evaluation of existing resources developed pursuant to rule 3607;
- (d) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule 3608;
- (e) An assessment of need for additional resources developed pursuant to rule 3609;
- (f) A description of the utility's plan for acquiring these resources pursuant to rule 3610;
- (g) The proposed RFP(s) the utility intends to use to solicit bids for the resources to be acquired through a competitive acquisition process, pursuant to rule 3612; and
- (h) An explanation stating whether current rate designs for each major customer class are consistent with the contents of its plan. The utility shall also explain whether possible future changes in rate design will facilitate its proposed resource planning and resource acquisition goals.

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, 3608(a) and 3609. Each cooperative generation and transmission association shall also file annual reports pursuant to rules 3614(a)(I) through 3614(a)(VI).

3606. Electric Energy and Demand Forecasts.

- (a) Forecast Requirements. The utility shall prepare the following energy and demand forecasts for each year within the planning period:
 - (I) Annual sales of energy and coincident summer and winter peak demand in total and disaggregated among Commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states;
 - (II) Annual sales of energy and coincident summer and winter peak demand on a system-wide basis for each major customer class;
 - (III) Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand;
 - (IV) Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand;
 - (V) Annual system losses and the allocation of such losses to the transmission and distribution components of the system. Coincident summer and winter peak system losses and the allocation of such losses to the transmission and distribution components of the systems; and
 - (VI) Typical day load patterns on a system-wide basis for each major customer class. This information shall be provided for peak-day, average-day, and representative off-peak days for each calendar month.
- (b) Range of forecasts. The utility shall develop and justify a range of forecasts of coincident summer and winter peak demand and energy sales that its system may reasonably be required to serve during the planning period. The range shall include base case, high, and low forecast scenarios of coincident summer and winter peak demand and energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.
- (c) Required Detail.
 - (I) In preparing forecasts, the utility shall develop forecasts of energy sales and coincident summer and winter peak demand for each major customer class. The utility shall use end-use, econometric or other supportable methodology as the basis for these forecasts. If the utility determines not to use end-use analysis, it shall explain the reason for its determination as well as the rationale for its chosen alternative methodology.

- (II) The utility shall explain the effect on its energy and coincident peak demand forecast of all existing energy efficiency and energy conservation programs for each major customer class, as well as any such measures that have been approved by the Commission but are not included in the forecasts.
- (III) The utility shall maintain, as confidential, information reflecting historical and forecasted demand and energy use for individual customers in those cases when an individual customer is responsible for the majority of the demand and energy used by a particular rate class. However, when necessary in the least-cost resource plan proceedings, such information may be disclosed to parties who intervene in accordance with the terms of non-disclosure agreements approved by the Commission and executed by the parties seeking disclosure.
- (d) Historical Data. The utility shall compare the annual forecast of coincident summer and winter peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the five years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecasts in its most recently filed resource plan to the annual forecasts in the current resource plan.
- (e) Description and Justification. The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this rule, as well as the forecasts themselves.
- (f) Format and Graphical Presentation of Data. The utility shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting parties in such electronic formats as the Commission shall reasonably require.

3607. Evaluation of Existing Generation Resources.

- (a) Existing Generation Resource Assessment. The utility shall describe its existing generation resources, all utility-owned generating facilities for which the utility has obtained a CPCN from the Commission pursuant to C.R.S. § 40-5-101 at the time the plan is filed, and existing or future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description shall include when applicable:
 - (I) Name(s) and location(s) of utility-owned generation facilities;

- (II) Rated capacity and net dependable capacity of utility-owned generation facilities;
 - (III) Fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities over the planning period;
 - (IV) Estimated in-service dates for utility-owned generation facilities for which a CPCN has been granted but which are not in-service at the time the plan under consideration is filed;
 - (V) Estimated remaining useful lives of existing generation facilities without significant new investment or maintenance expense;
 - (VI) The amount of capacity and/or energy purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy purchased pursuant to such contracts; and
 - (VII) The amount of capacity and energy provided pursuant to wheeling or coordination agreements, the duration of such wheeling or coordination agreements, and a description of any contract provisions that allow for modification of the amount of capacity and energy provided pursuant to such wheeling or coordination agreements.
- (b) Utilities required to comply with these rules shall coordinate their plan filings such that the amount of electricity purchases and sales between utilities during the planning period is reflected uniformly in their respective plans. Disputes regarding the amount, timing, price, or other terms and conditions of such purchases and sales shall be fully explained in each utility's plan. If a utility files an interim plan as specified in rule 3603, the utility is not required to coordinate that filing with other utilities.
- (c) Existing Transmission Capabilities and Future Needs.
- (I) The utility shall report its existing transmission capabilities, and future needs during the planning period, for facilities of 115 kilovolts and above, including associated substations and terminal facilities. The utility shall generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources. With respect to future needs, the utility shall explain the need for facilities based upon future load projections (including reserves). To the extent reasonably available, the utility shall include a description of the length and location of any additional facilities needed, their estimated costs, terminal points, voltage and megawatt

rating, alternatives considered or under consideration, and other relevant information.

- (II) In order to equitably compare possible resource alternatives, the utility shall consider all transmission costs required by, or imposed on the system by, a particular resource as part of the bid evaluation criteria.

3608. Planning Reserve Margins.

- (a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices).
- (b) The utility shall develop and justify planning reserve margins for each year of the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: 1) the development of generation, 2) losses of generation capacity, 3) purchase of power, 4) losses of transmission capability, 5) risks due to known or reasonably expected changes in environmental regulatory requirements, and 6) other risks. The utility shall develop planning reserve margins for its system for each year of the planning period outside of the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.
- (c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for each year of the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its contingency plans for the acquisition of additional resources if actual circumstances deviate from the most likely estimate of future resource needs developed pursuant to rule 3609. The Commission will consider approval of contingency plans only after the utility receives bids, as described in rule 3614(b)(II). The provisions of rule 3613(d), Effect of the Commission Decision, shall not apply to the contingency plans unless explicitly ordered by the Commission.

3609. Assessment of Need for Additional Resources.

By comparing the electric energy and demand forecasts developed pursuant to rule 3606 with the existing level of resources developed pursuant to rule 3607, and planning reserve margins developed pursuant to rule 3608, the utility shall assess the need to acquire additional resources during the resource acquisition period.

3610. Utility Plan for Meeting the Resource Need.

- (a) The utility shall describe its least-cost resource plan for acquiring the resources to meet the need identified in rule 3609.

The utility shall specify the portion of the resource need that it intends to meet as a part of a stand-alone voluntary tariff service, where all costs are separate from standard tariff services, if any. If the utility chooses to offer a stand-alone voluntary service it must comply with the provisions of rule 3610(e), and the costs associated with any independent auditor will be assigned to the stand-alone voluntary service offering and will not be borne by the general body of utility ratepayers. The utility shall specify the portion of the resource need that it intends to meet through a competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.

- (b) The utility shall meet the resource need identified in the plan through a competitive acquisition process, unless the Commission approves an alternative method of resource acquisition. If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire, and the reason the specific resource(s) should not be acquired through a competitive acquisition process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition. The least-cost resource plan shall describe and estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process. The utility shall also explain and justify how the alternative method of resource acquisition complies with the requirements of the Public Utility Regulatory Policy Act and Commission rules implementing such act. The lesser of 250 megawatts, or 10% of the highest base case forecast peak requirement identified for the resource acquisition period, shall be the maximum amount of power that the utility may obtain through such alternative method of resource acquisition (I) in any single resource acquisition period, and (II) from any single specific resource, regardless of the number of resource acquisition periods over which the units, plants or other components of the resource might be built, or the output of the resource made available for purchase.
- (c) The utility shall have the flexibility to propose multiple acquisitions at various times over the resource acquisition period. However, the limits specified in paragraph (b) of this rule shall apply to the total resources acquired through an alternative method during an entire four-year least cost planning cycle.
- (d) Each utility shall establish, and include as a part of its filing, a written bidding policy to ensure that bids are solicited and evaluated in a fair and reasonable manner. The utility shall specify such competitive acquisition procedures that it intends to use to obtain resources under the utility's plan.

- (e) If the utility intends to accept proposals from the utility or from an affiliate of the utility, the utility shall include as part of its filing a written separation policy and the naming of an independent auditor whom the utility proposes to hire to review and report to the Commission on the fairness of the competitive acquisition process. The independent auditor shall have at least five years' experience conducting and/or reviewing the conduct of competitive electric utility resource acquisition, including computerized portfolio costing analysis. The independent auditor shall be unaffiliated with the utility; and shall not, directly or indirectly, have benefited from employment or contracts with the utility in the preceding five years, except as an independent auditor under these rules. The independent auditor shall not participate in, or advise the utility with respect to, any decisions in the bid-solicitation or bid-evaluation process. The independent auditor shall conduct an audit of the utility's bid solicitation and evaluation process to determine whether it was conducted fairly. For purposes of such audit, the utility shall provide the independent auditor immediate and continuing access to all documents and data reviewed, used or produced by the utility in its bid solicitation and evaluation process. The utility shall make all its personnel, agents and contractors involved in the bid solicitation and evaluation available for interview by the auditor. The utility shall conduct any additional modeling requested by the independent auditor to test the assumptions and results of the bid evaluation analyses. Within sixty days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. After the filing of the independent auditor's report, the utility, other bidders in the resource acquisition process and other interested parties shall be given the opportunity to review and comment on the independent auditor's report.
- (f) In selecting its final resource plan, the utility's objective shall be to minimize the net present value of rate impacts, consistent with reliability considerations and with financial and development risks. The utility shall consider renewable resources; resources that produce minimal emissions or minimal environmental impact; energy-efficient technologies; and resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases; as a part of its bid solicitation and evaluation process. Further, the utility shall grant a preference to such resources where cost and reliability considerations are equal.

3611. Exemptions from competitive acquisition.

The following resources need not be acquired through a competitive acquisition process and need not be included in an approved Least-Cost Plan prior to acquisition:

- (a) Emergency maintenance or repairs made to utility-owned generation facilities;
- (b) Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than thirty megawatts;
- (c) Capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for not more than a two year term (including renewal terms) or for not more than thirty megawatts of capacity;
- (d) Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than thirty megawatts, based on the utility's share of the total generation facility site output, and that have an estimated cost of not more than \$30 million;
- (e) Interruptible service provided to the utility's electric customers;
- (f) Modifications to, or amendments of, existing power purchase agreements, which do not extend the agreement more than four years, that add not more than thirty MW of capacity to the utility's system, and that are cost effective in comparison to other supply-side alternatives available to the utility; and
- (g) Utility investments in emission control equipment at existing generation plants.

3612. Request(s) For Proposals.

- (a) Purpose of the Request(s) for Proposals. The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire additional resources pursuant to rule 3610.
- (b) Contents of the Request(s) for Proposals. The proposed RFP(s) shall include the bid evaluation criteria the utility plans to use in ranking the bids received. The utility shall also include in its proposed RFP(s): 1) base-load, intermediate and/or peaking needs, and preferred fuel type; 2) reasonable estimates of transmission costs for resources located in different areas; 3) the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control; 4) the utility's proposed standard contract(s) for the acquisition of resources; 5) proposed contract term lengths; 6) discount rate and 7) general planning assumptions, and any other information necessary to implement a fair and reasonable bidding program.

3613. Commission Review and Approval of Least-Cost Resource Plans.

- (a) Review on the Merits. The utility's plan, as developed pursuant to rule 3604 will be filed in the form of an application administered pursuant to the Commission's Rules of Practice and Procedure. The Commission may hold a hearing for the purpose of reviewing and rendering a decision regarding the contents of the utility's plan upon its filing.
- (b) Basis for Commission Decision. Based upon the evidence of record, the Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part to the utility's plan. If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission, and provide copies to all parties who participated in the application docket concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.
- (c) Contents of the Commission Decision. The Commission decision approving or denying the plan shall address the contents of the utility's plan filed in accordance with rule 3604. If the record contains sufficient evidence, the Commission shall specifically approve or modify: (1) the utility's assessment of need for additional resources in the resource acquisition period, (2) the utility's plans for acquiring additional resources through the competitive acquisition process, or through an alternative acquisition process, and (3) components of the utility's proposed RFP, such as the proposed evaluation criteria.
- (d) Effect of the Commission Decision. A Commission decision specifically approving the components of a utility's plan creates a presumption that utility actions consistent with that approval are prudent. Because the Commission will not approve a utility's selection of specific resources, the Commission's approval of a plan creates no presumptions regarding those resources.
 - (I) In a proceeding concerning the utility's request to recover the investments or expenses associated with new resources:
 - (A) The utility must present *prima facie* evidence that its actions were consistent with Commission decisions specifically approving or modifying components of the plan.

- (B) To support a Commission decision to disallow investments or expenses associated with new resources on the grounds that the utility's actions were not consistent with a Commission approved plan, an intervenor must present evidence to overcome the utility's *prima facie* evidence that its actions were consistent with Commission decisions approving or modifying components of the plan. Alternatively, an intervenor may present evidence that, due to changed circumstance timely known to the utility or that should have been known to a prudent person, the utility's actions were not proper.
- (II) In a proceeding concerning the utility's request for a certificate of public convenience and necessity to meet customer need specifically approved by the Commission in its decision on the least-cost resource plan, the Commission shall take administrative notice of its decision on the plan. Any party challenging the Commission's decision regarding need for additional resources has the burden of proving that due to a change in circumstances the Commission's decision on need is no longer valid.

3614. Reports

- (a) Annual Progress Reports. The utility shall file with the Commission, and provide copies to all parties to the most recent least-cost planning docket, annual progress reports after submission of its plan application. The annual progress reports will inform the Commission of the utility's efforts under the approved plan. Annual progress reports shall also contain:
 - (I) An updated annual electric demand and energy forecast developed pursuant to rule 3606;
 - (II) An updated evaluation of existing resources developed pursuant to rule 3607;
 - (III) An updated evaluation of planning reserve margins and contingency plans developed pursuant to rule 3608;
 - (IV) An updated assessment of need for additional resources developed pursuant to rule 3609;
 - (V) An updated report of the utility's plan to meet the resource need developed pursuant to rule 3610 and the resources the utility has acquired to date in implementation of the plan; and
 - (VI) In addition to the items required in 3614(a)(I) through 3614(a)(V), cooperative electric generation and transmission associations shall include in their annual report a full explanation of how its future resource acquisition plans will give fullest possible consideration

to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.

(b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:

(I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: (1) the number of bids received, (2) the quantity of MW offered by bidders, (3) a breakdown of the number of bids and MW received by resource type, and (4) a description of the prices of the resources offered.

(II) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file an application for approval of a contingency plan, within 30 days after bids are received. The application shall include justification for need of the contingency plan, proposed action by the utility, expected costs, and expected timeframe for implementation.

(III) Within 45 days after the utility has selected the winning bidders, the utility shall report: (1) the number of winning bids, (2) the quantity of MW offered by the winning bidders, (3) a breakdown of the number and MW of winning bids by resource type, name and location, and (4) a description of the prices of the winning bids.

3615. Amendment of an Approved plan.

The utility may, at any time, file an application to amend the contents of a plan approved pursuant to rule 3613. Such an application shall be administered pursuant to the Commission's rules of Practice and Procedure

3616. - 3699. [Reserved].

APPEALS OF LOCAL GOVERNMENT LAND USE DECISIONS

3700. Scope and Applicability.

These rules are applicable to all utilities or power authorities. In order for an utility or power authority to appeal a local government action to the Commission under this rule, according to § 29-20-108(5)(a), C.R.S., one or more of the following conditions must be met:

- (a) The utility or power authority has applied for or has obtained a certificate of public convenience and necessity from the Commission pursuant to § 40-5-101, C.R.S., to construct the major electrical facility that is the subject of the local government action;
- (b) A certificate of public convenience and necessity is not required for the utility or power authority to construct the major electrical facility that is the subject of the local government action; or
- (c) The Commission has previously entered an order pursuant to § 40-4-102, C.R.S., that conflicts with the local government action.

3701. Definitions.

The following definitions apply only in the context of Rules 3700 - 3706, unless a specific statute or rule provides otherwise.

- (a) "Local Government" means a county, home rule or statutory city, town, territorial charter city, or city and county.
- (b) "Local government action" means any decision, in whole or in part, by a local government which has the effect or result of denying a permit or application of a utility or power authority that relates to the location, construction, or improvement of major electrical facilities, or a decision imposing requirements or conditions upon such permit or application that will unreasonably impair the ability of the utility or power authority to provide safe, reliable, and economical service to the public.
- (c) "Local land use decision" means the decision of a local government within its jurisdiction to plan for and regulate the use of land.
- (d) "Major electrical facility" shall have that meaning set forth in § 29-20-108(3)(a), (b), (c), and (d), C.R.S., or in any other applicable statute.
- (e) "Power authority" means an authority created pursuant to § 29-1-204, C.R.S.

3702. Applications.

Contents. All application filed in accordance with § 29-20-108(5)(c) and (d), for an appeal of local government land use decision shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

- (a) All of information required in rules 3002(b) and (c);

- (b) A statement of the reasons why the local government action would unreasonably impair the ability of a utility or power authority to provide safe, reliable, and economical service to the public;
- (c) The demonstrated need for the major electrical facility or reference to the application under Rule 3206 and the resulting decision of the Commission regarding this project;
- (d) The extent to which the proposed facility is inconsistent with existing applicable local or regional land use ordinances, resolutions, or master or comprehensive plans;
- (e) Whether the proposed facility would exacerbate a natural hazard;
- (f) Applicable utility engineering standards, including supply adequacy, system reliability, and public safety standards;
- (g) The relative merit determined through use of the normal system planning evaluation techniques of the utility of any reasonably available and economically feasible alternatives proposed by the utility, the power authority, or the local government;
- (h) The impact that the local government action would have on the customers of the utility or power authority who reside within and without the boundaries of the jurisdiction of the local government;
- (i) To the extent available, the basis for the local government's decision to deny the application or impose additional conditions to the application shall be included;
- (j) The impact the proposed facility would have on residents within the local government's jurisdiction including, in the case of a right of way in which facilities have been placed underground, whether those residents have already paid to place such facilities underground, and if so, shall give strong consideration to that fact; and
- (k) Information concerning how the proposed major electrical facilities will affect the safety of residents within and without the boundaries of the jurisdiction of the local government.
- (l) An attestation that the utility or power authority will, upon filing the application with the Commission, simultaneously send a copy of the application to the local government body which has denied or imposed additional conditions upon the utility or power authority.

3703. Public Hearing.

In accordance with § 29-20-108(5)(b), C.R.S., in addition to the formal evidentiary hearing on the appeal, the public utilities commission shall take statements from the public concerning the appealed local government action at a public hearing held at a location specified by the local government.

3704. Prehearing Conference.

- (a) In order to assist the parties in scheduling the public hearing, determining the scheduling of the evidentiary hearing, and developing the list of persons to receive notice of these hearings, the Commission will require a prehearing conference.
- (b) The Commission shall conduct a prehearing conference within 15 days after the application is deemed complete by the Commission.
- (c) The local government, which denied the application or imposed additional conditions, shall be joined as an indispensable party by the Commission.
- (d) Ten days before the commencement of the prehearing conference, the local government shall submit to the parties and the Commission its preference for the location of the public hearing in accordance with § 29-20-108(5)(b), C.R.S.
- (e) The Commission will decide the date and time of the public hearing after receiving comments from the parties at the prehearing conference.
- (f) By the date of the prehearing conference, each party shall provide to the utility or power authority a list of individuals and groups to receive notice of the public hearing.
- (g) The utility or power authority will be required to give notice of the public hearing to all the individuals and groups in a manner specified by the Commission. Notice may be accomplished by newspaper publication, bill insert, first class mail, or any other manner deemed appropriate by the Commission.
- (h) If the local government is unable to provide meeting space for the public hearing, and space needs to be acquired, then the utility or power authority shall bear any cost associated with the rental of such space for the public hearing.
- (i) The parties are encouraged to confer prior to the prehearing conference to develop a schedule for the filing of testimony and the dates for the formal evidentiary hearing.

3705. Denial of Appeal.

In accordance with § 29-20-108(5)(e), C.R.S., the Commission shall deny any appeal of a local government action unless the utility or power authority has complied with the following notification and consultation requirements:

- (a) A utility or power authority shall notify the affected local government of its plans to site a major electrical facility within the jurisdiction of the local government prior to submitting the preliminary or final permit application, but in no event later than filing a request for a certificate of public convenience and necessity pursuant to Article 5 of Title 40,

C.R.S., or the filing of any annual filing with the Commission that proposes or recognizes the need for construction of a new facility or the extension of an existing facility. If a utility or power authority is not required to obtain a certificate of public convenience and necessity pursuant to Article 5 of Title 40, C.R.S., or file annually with the Commission to notify the Commission of the proposed construction of a new facility or the extension of an existing facility, the utility or power authority shall notify any affected local governments of its intention to site a major electrical facility within the jurisdiction of the local government when such utility determines that it intends to proceed to permit and construct the facility. Following such notification, the utility or power authority shall consult with the affected local governments in order to identify the specific routes or geographic locations under consideration for the site of the major electrical facility and attempt to resolve land use issues that may arise from the contemplated permit application.

- (b) In addition to its preferred alternative within its permit application, the utility or power authority shall consider and present reasonable siting and design alternatives to the local government or explain why no reasonable alternatives are available.

3706. Procedural Rules.

Pursuant to § 29-20-108(5)(b), C.R.S. any appeal brought by a utility or power authority to the Commission under this section shall be conducted in accordance with the procedural requirements of Article 6 of Title 40 of the Colorado Revised Statutes, including § 40-6-109.5, C.R.S. Evidentiary hearings on any such appeals shall be conducted in accordance with § 40-6-109.

3707. - 3799. [Reserved].

MASTER METERS

3800. Applicability.

These rules are applicable to any person who purchases electric service from a utility for the purpose of delivery of such service to end users whose aggregate usage is to be measured by a master meter or other composite measurement device.

3801. Definitions.

The following definitions apply only in the context of Rules 3900 - 3903, unless a specific statute or rule provides otherwise.

- (a) "Check-meter" means a meter or other composite measurement device, used by a master meter operator who is exempt from rate regulation, to determine usage of those served.

- (b) "Master meter" means the meter or other composite measurement device used to bill the MMO by the regulated utility.
- (c) "Master meter operator" means any person who purchases electric service from a regulated utility for the purpose of delivery of such service to end users, whose aggregate usage is to be measured by a master meter.
- (d) "Refunds" means any refunds, rebates, rate reductions, or similar adjustments.

3802. Exemption from Rate Regulation.

- (a) Contents. Either upon its own motion or upon the application of any master meter operator (MMO), the Commission may exempt a MMO from rate regulation under Articles 1 to 7 of Title 40, C.R.S., if the Commission finds that the MMO has adopted adequate policies and procedures. All applications for master meter exemption from regulation shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All of information required in rules 3002(b) and (c);
 - (II) As part of its billing for utility service, the MMO shall charge the end-users only the actual cost billed to the MMO by the serving utility. The MMO shall not charge end-users for any other costs, such as the costs of construction, maintenance, financing, administration, metering, or billing for the equipment and facilities owned by the MMO.
 - (III) If the MMO bills the end-users separately for service, the sum of such billings shall not exceed the amount billed to the MMO by the serving utility. The MMO shall pass on to the end-users any refunds it receives from the serving utility.
 - (IV) The MMO shall establish procedures for giving notice of refunds to those who are not current end-users, but who were end-users during the subject time period.
- (b) Resale of electricity for profit by a MMO exempt from rate regulation is strictly prohibited. A MMO may check-meter tenants, lessees, or other persons to whom ultimately the electricity is distributed, for the purpose of reimbursing the MMO by an appropriate allocation procedure, provided the MMO does not receive more than the actual cost billed to the MMO by the serving utility. Resale activity is a basis for revocation of an exemption order.

3803. MMO Refunds.

- (a) In passing on refunds to end-users, a MMO shall notify its end-users of any refunds and inform the end-users that they may claim

the refunds within 90 days after receipt of the notice. The notification shall be made by first-class mail with a certificate of mailing, or by inclusion in any monthly or more frequent written communication. The MMO shall also notify former customers who were end-users during the subject time period.

- (b) If the aggregate amount of refunds remaining unclaimed after 90 days exceeds 100 dollars, the MMO shall contribute such unclaimed amount to the energy assistance organization. If the aggregate amount does not exceed 100 dollars, the MMO may retain such aggregate amount. A MMO may retain any portion of such refunds that rightfully belongs to the MMO.
- (c) A MMO shall pay interest on undistributed refunds in accordance with the Commission's Customer Deposit Interest Rate Rule 3402(1).

3804. -3899 [Reserved].

SMALL POWER PRODUCERS AND COGENERATORS

3900. Avoided Costs.

- (a) Each utility shall pay qualifying facilities a rate for energy and capacity purchases based on the utility's avoided costs. Each electric utility shall file tariffs setting forth standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. The utility shall use a bid or auction or combination procedure to establish its avoided costs.
- (b) If a utility can demonstrate to the Commission that a qualifying facility should receive a different rate from that established by these rules, the Commission may authorize such. The burden of establishing such different rate shall be on the utility and the rate shall be based on system wide costing principles and other appropriate load and cost data.
- (c) Nothing in this rule requires any electric utility to pay more than the avoided costs of energy and capacity, or energy or capacity for purchases from qualifying facilities.

3901. Payment of Interconnection Costs.

- (a) Each qualifying facility shall pay the cost of interconnecting with any electric utility for purchases and sales of capacity and energy. To the extent that interconnection costs can be determined in advance of interconnection, each electric utility shall establish the cost of interconnection for purchases of energy and capacity. The interconnection costs shall be fair, reasonable, and nondiscriminatory to each qualifying facility.

- (b) The utility and qualifying facility may agree to an installment payment arrangement for interconnection costs.

3902. - 3909. [Reserved].

3910. Standards for Operating Reliability and Safety.

Rules 3810 to 3849 establish standards, as authorized by 18 C.F.R. § 292.308, to ensure the safe and reliable interconnected operations of cogeneration facilities and small power production facilities ("qualifying facilities") with utilities regulated by the Commission. .

3911. Responsibility of Utilities to Provide Quality Service.

- (a) A utility shall provide substantially the same quality of service to its customers and to the qualifying facility after interconnection of the qualifying facility as the utility provided prior to interconnection of the qualifying facility.
- (b) At the request of a qualifying facility or the utility prior to interconnection, a utility may evaluate the quality of service to be provided to the qualifying facility. Such evaluation may be used to estimate the effects of interconnection on the quality of service to be provided.
- (c) An evaluation may be used to establish the quality of service that a utility shall provide to a qualifying facility after interconnection.
- (d) The cost of conducting an evaluation shall be included as an interconnection cost of a qualifying facility. If the qualifying facility desires a superior quality of service, any increased cost shall be an interconnection cost of the qualifying facility.

3912. Submission of Design Information by Qualifying Facilities.

- (a) Any person seeking to establish interconnected operations as a qualifying facility shall provide the utility it proposes to interconnect with detailed design information of its proposed facilities at least 150 days prior to the proposed interconnection date. At any time after submission of design information, the utility and the qualifying facility may agree to an interconnection date sooner than 150 days. At the time it provides the detailed design information to the utility, the qualifying facility also shall provide the utility with a copy of all available manufacturers' literature for the equipment to be installed, including installation and operating instructions.
- (b) The design information submitted by a qualifying facility shall be sufficient to enable a utility to assess the impact of the proposed interconnection on the utility's system, operating plans and system-expansion plans.

- (c) A utility shall notify a qualifying facility within 25 days after the receipt of design information, or such longer period as agreed by them, whether the design information is adequate or whether additional information is required. If additional information is required, the utility shall specify in writing what additional information is needed and the qualifying facility shall promptly submit the additional information.

3913. Conferences between Utilities and Qualifying Facilities.

- (a) At the earliest time possible at a minimum of no later than 30 days after design information has been provided to a utility, the utility and the qualifying facility shall confer.
- (b) At the conference the utility shall provide the qualifying facility with the names of governmental agencies, which have requirements regulating interconnection, such as electrical codes, construction codes, sizing criteria, setback distances, physical clearances, protective devices, inspections, and grounding practices.
- (c) The utility also shall inform the qualifying facility of the within rules and the safety standards and procedures required for interconnection, such as harmonic content for output voltage levels, recommended use of induction generators, line-commutated inverters, reliable disconnection equipment, etc.

3914. Establishment of Requirements for Qualifying Facilities.

Within 25 days after the submission of design information by a qualifying facility:

- (a) A utility shall establish written requirements for a qualifying facility so that it will not cause abnormal operation of the utility's protective equipment.
- (b) A utility shall inform a qualifying facility of the existing phasing available to the qualifying facility. The utility shall encourage the qualifying facility to use the existing phasing for the proposed interconnection. The utility shall inform the qualifying facility that any phase imbalances may affect the safety of the proposed service or neighboring customer's loads. In the event that phased loadings of interconnection cause phase imbalances, the cost of equipment to correct the imbalances shall be an interconnection cost of the qualifying facility.

3915. Compliance with Requirements and Rule Standards.

- (a) No qualifying facility shall be interconnected with a utility until it has established, to the satisfaction of the utility, that it has complied with the utility's requirements for interconnected operations and the standards set by Rules 3810 to 3849.

- (b) When a qualifying facility determines that it has complied with all of the requirements of a utility and the standards set by these rules for interconnected operations, it shall give notice of that fact to the utility. Within 25 days after receipt of such notice, the utility and qualifying facility shall arrange for an onsite inspection of the qualifying facility. The utility shall inspect the entire installation, including all systems and equipment, for the purpose of determining compliance by the qualifying facility.
 - (I) If the utility determines from the inspection that the qualifying facility has complied with all of the requirements of the utility and the standards set by these rules, the utility shall certify in writing that the qualifying facility complies.
 - (II) If the utility determines that the qualifying facility has failed to comply with any requirement of the utility or any standard set by these rules, the utility shall notify the qualifying facility in writing of the requirements or standards that the qualifying facility must meet for interconnection. Upon compliance, the qualifying facility shall give notice to the utility and the parties shall then proceed as provided in this paragraph (b).
- (c) When the qualifying facility has obtained compliance certification, the qualifying facility and the utility shall schedule a date for the initial energizing and start-up testing of the qualifying facility's generating equipment. The utility shall be present at this test.
 - (I) At the conclusion of the test, the utility shall certify whether the qualifying facility may commence interconnected operations.
 - (II) If the qualifying facility fails the start-up test, the utility shall so notify the qualifying facility in writing. When the qualifying facility has corrected the deficiencies, the parties shall schedule a new start-up test, and the procedure set forth in this paragraph (c) shall be followed.
- (d) In the event of a disagreement between a qualifying facility and a utility regarding compliance by the qualifying facility with the utility's requirements, the standards set by these rules, or the qualifying facility's failure of the start-up test, either party may file with the Commission a petition for a declaratory order under Rule 1304(j) seeking resolution of the disagreement.
- (e) In the event that either party files a petition for a declaratory order, the Commission shall enter an order resolving the dispute. The qualifying facility or the utility shall comply with the Commission's order prior to interconnection.

3916. Code Certification by Qualifying Facilities.

- (a) A qualifying facility shall provide a utility with certification that it has complied with all applicable governmental codes, such as electrical codes, construction codes, sizing criteria, set-back distances, physical clearances, protective devices, inspections, and grounding practices.
- (b) A qualifying facility shall obtain such certification at its own cost.

3917. Limits of Magnitude of Qualifying Facilities.

- (a) For purposes of the safety, reliability, and capacity of a utility's systems, a utility shall establish practical upper limits for the magnitude of qualifying facility installations. The utility shall estimate the potential effects of aggregate interconnection of all interconnected qualifying facilities.
- (b) The practical upper limits and aggregate effects of interconnection established by a utility shall be initially developed and filed with the Commission within six months after the effective date of these rules, unless previously filed with the Commission. A utility may use general data to determine the upper limits and aggregate effects of interconnection, if it does not have specific data available. If specific data is available, a utility shall use such specific data for the establishment of the upper limits.
- (c) If a utility determines that existing interconnections are creating, or proposed interconnections may create, safety, reliability, or capacity problems, the utility may apply to the Commission for a moratorium on further interconnections. The utility shall give notice of the application to all interconnected qualifying facilities and any qualifying facility seeking interconnection with the utility. The burden shall be on the utility.

3918. Access by Utilities to Premises of Qualifying Facilities.

- (a) A utility shall have access to a qualifying facility prior to construction to determine if minimum setback distances and physical clearances will be met for the safety of the utility's and qualifying facility's equipment. The cost of said inspection shall be included as an interconnection cost of the qualifying facility.
- (b) A utility shall have access to a qualifying facility to repair, maintain, or retrieve any of its equipment affected by a failure of the utility's or qualifying facility's equipment.

3919. Coordination of Circuit Protection Equipment.

- (a) Prior to interconnection, and at the earliest time possible after a qualifying facility provides its design information, a utility shall determine if its circuit protection equipment can accommodate the equipment of the qualifying facility.
- (b) A utility shall evaluate the effects of a proposed interconnection, together with the aggregate effects of all other interconnections, on the utility's installed circuit protection equipment. Pre-engineering costs incurred prior to interconnection shall be a cost of the qualifying facility. Pre-engineering costs shall not include routine normal evaluation of the proposed interconnection.
- (c) As part of normal planning, a utility shall evaluate the interaction between a qualifying facility's operations and the utility's installed circuit protection equipment. The cost of evaluation shall be an interconnection cost of the qualifying facility.
- (d) If the design of a qualifying facility causes replacement or significant re-coordination of the circuit protection equipment of a utility, or if the design reasonably can be expected to require extraordinary operation of the utility's installed protection equipment, the utility shall not interconnect with the qualifying facility. The utility may decline to interconnect until the design has been modified to eliminate the problems, or until specific modified designs for the interconnection are established. Replacement and re-coordination costs shall be an interconnection cost of the qualifying facility.
- (e) A qualifying facility shall provide the utility with a description of the qualifying facility's electrical and mechanical equipment sufficient for the utility to determine the safety and adequacy of its installed service drops and supply equipment. Such information shall be supplied by the qualifying facility at the time it submits its design information to the utility.

3920. Installation of Protective Equipment by Qualifying Facilities to Accommodate Protection Equipment of Utilities.

- (a) Within 25 days after a qualifying facility submits its design information, a utility shall notify the qualifying facility of the necessity to install protective equipment to accommodate the utility's system protection equipment.
- (b) Such notification shall be made in writing and shall list the specific types of protective equipment required, the operations of the utility which necessitate protection, and the possible effects upon a qualifying facility's system if it fails to install the required protective equipment.
- (c) A utility shall not be responsible for the effects on a qualifying facility's equipment and systems that are caused by

the system or equipment of the utility, such as reclosures and sectionalizers.

3921. Grounding Qualifying Facility Equipment.

- (a) A utility shall establish grounding practices that are commensurate with those in the area, taking into consideration soil conditions, the nature of other loads in the area, and the utility's experience. Grounding practices shall be consistent with applicable national, state, and local codes. A qualifying facility shall ground all equipment to meet governmental codes and the utility's requirements.
- (b) A utility shall advise a qualifying facility of its grounding requirements and applicable governmental codes within 25 days after the qualifying facility submits its design information.
- (c) If the grounding of a qualifying facility's equipment degrades safety, necessitating improvements or modifications of the interconnection, the responsibility and cost of such improvements or modifications shall be on the qualifying facility.
- (d) In the event that grounding of a qualifying facility causes electro-magnetic interference with telephone service, radio or television reception, or the operation of other electrical devices, it shall be the responsibility of the qualifying facility to make the necessary grounding modifications to remove such interference. The cost of such modifications shall be an interconnection cost of the qualifying facility.
- (e) No qualifying facility shall commence interconnected operations until it obtains certification that it has complied with all applicable governmental codes, and the utility approves the grounding of the qualifying facility's equipment.

3922. Standards for Harmonics and Frequency.

- (a) A utility shall establish standards for the harmonic content of power and energy generated by qualifying facilities. Such standards shall not be more stringent than those of the utility's bulk power suppliers.
- (b) No qualifying facility shall commence interconnected operations until it establishes, to the satisfaction of the utility, that it will produce power and energy at a fundamental frequency of 60 HZ, and that such power will not exceed the standards required for harmonic content.
- (c) A utility shall not be responsible for onsite interference caused by harmonics (such as heating), failure of motors, interference with telephone service or television or radio reception, and other manifestations of degraded quality of service, caused by the failure of a qualifying facility to produce power and energy at 60 HZ.

3923. Interconnection at Different Voltage Levels.

- (a) A qualifying facility shall interconnect with a utility at the utility's established secondary voltage level, unless the utility agrees to an interconnection at a different voltage level.
- (b) An interconnection at a different voltage level that requires the utility to install different or additional protective equipment, or that requires the utility to make other modifications of its system shall be an interconnection cost of the qualifying facility.

3924. Types of Generators and Inverting Equipment.

- (a) A utility shall establish standards to encourage qualifying facilities to use induction generators and line-commutated inverters, rather than synchronous generators and self-commutated equipment, in order to minimize the possibility of reverse power flow during periods of line outages. Such standards, however, shall not exclude the use of synchronous generators.
- (b) A utility shall adopt power factor standards at the point of interconnection. Such standards shall recognize that a qualifying facility may not produce excessive reactive power during off-peak conditions and may not consume excessive reactive power during on-peak conditions.
- (c) A qualifying facility's abnormal power factor that causes deleterious effects on a utility's system shall be corrected by the utility at the expense of the qualifying facility. Deleterious effects on a qualifying facility's system caused by its abnormal power factor shall be corrected by the qualifying facility at its own expense.

3925. System Protection Equipment.

- (a) Prior to interconnection, a qualifying facility shall install protective equipment that will automatically disconnect its generating equipment from a utility's power lines in the event of failure of its generating equipment or a power line outage.
 - (I) Such protective equipment, or separate equipment, shall have the ability to isolate the energy generated or supplied by a utility or by a qualifying facility. Such equipment shall be accessible to the utility and the qualifying facility.
 - (II) A utility shall have the right to operate such protective equipment whenever, in its judgment, it is necessary to maintain safe operating conditions, or whenever the operations of a qualifying facility adversely affect the utility's system.

- (III) A qualifying facility shall have the right to operate such protective equipment whenever, in its judgment, it is necessary to maintain safe operating conditions, or whenever the operations of a utility adversely affect the qualifying facility's equipment.
- (IV) Protective equipment that isolates a qualifying facility's generation shall be lockable by a utility only in the open position. Equipment that isolates a utility's generation or supply shall be lockable by a qualifying facility only in the open position. Such equipment shall be installed so that there can be visual verification that the equipment is locked in the open position.
- (b) Prior to interconnection, a utility shall require a qualifying facility to operate its protective equipment to the satisfaction of the utility.
- (c) A qualifying facility shall install fused protection between major components of all switched interconnections.
- (d) A qualifying facility shall install protective relaying equipment to confine the effects of faults, lightning strikes, or other abnormalities and to protect its and a utility's equipment.
- (e) If a qualifying facility makes significant modifications to its equipment, or if future difficulties arise on the systems of the qualifying facility or utility as a result of the interconnection, the utility may require different or additional protective equipment, or may require modifications as a condition of continued interconnected operations. The cost of such protective equipment or modifications shall be a cost of the qualifying facility.
- (f) No specific number of system protective devices is required by this rule.

3926. Meters.

- (a) A utility shall, at cost, supply, install, and maintain meters to measure the generation of a qualifying facility.
- (b) A qualifying facility shall supply, at no expense to the utility, a suitable location for the installation of meters.
- (c) The cost of meters, their installation and maintenance shall be an interconnection cost of the qualifying facility.

3927. Maintenance and Inspection of Qualifying Facilities.

- (a) Prior to interconnection, a qualifying facility shall establish a schedule of planned maintenance containing dates, times, and procedures. No qualifying facility shall commence interconnected

operations until the utility approves the proposed maintenance schedule. The utility shall not withhold approval unreasonably.

- (b) A utility shall establish written procedures for inspecting a qualifying facility and shall provide a copy of the procedures to the qualifying facility prior to interconnection. Inspection procedures may be modified on a case-by-case basis.
- (c) A qualifying facility shall keep records of maintenance and a utility shall keep records of inspections. Each shall have access to the records of the other.
- (d) A utility may inspect a qualifying facility, on demand, to determine if the qualifying facility is complying with the previously approved maintenance schedule and is safely operating all protective equipment, such as relays, circuit breakers at the interconnection, and tripping breakers on protective relays.
- (e) A utility may inspect the records of a qualifying facility, on demand, to determine if the qualifying facility is, or has been, reselling the utility's energy and/or capacity to the utility.
- (f) Personnel from both a utility and a qualifying facility shall witness inspections, except inspections to determine safety or the reselling of the utility's energy or capacity to the utility. For such inspections, the utility shall inform the qualifying facility that it may have personnel present during the inspection. If the qualifying facility declines, the inspection shall be conducted without the presence of qualifying-facility personnel.

3928. Disconnection of Qualifying Facilities.

- (a) If a utility determines that a qualifying facility has not complied with its maintenance schedule, its protective equipment is not operating properly, or has been reselling the utility's energy or capacity to the utility, the utility may disconnect the qualifying facility without notice, or may give the qualifying facility up to 30 days notice of disconnection.
- (b) A notice of disconnection shall inform the qualifying facility of the maintenance to be performed, the operational practices to be modified or terminated, or the repairs to be made to protective equipment to prevent disconnection. The qualifying facility shall comply with all requirements prior to the date of the proposed disconnection in order to avoid disconnection. The qualifying facility shall notify the utility when it has complied, at which time the utility shall re-inspect the facility. If the utility determines that the qualifying facility has complied, the qualifying facility shall not be disconnected. If the utility determines that the qualifying facility has not complied, the qualifying facility shall be disconnected as provided in the notice of disconnection.

- (c) A utility and a qualifying facility may agree to a reasonable continuance of a disconnection, or to a reconnection where the qualifying facility has been disconnected, if the utility believes that the qualifying facility is making a bona fide effort to comply. Where the qualifying facility has been disconnected for reselling the utility's energy and/or capacity to the utility, the agreement may be conditioned on the qualifying facility paying the utility for the resold energy and/or capacity.

3929. Qualifying Facilities to File Generation Schedule.

A qualifying facility, other than one dependent on intermittent sources of energy, such as solar or wind, shall provide a utility with a proposed schedule of generation prior to interconnection. The schedule may be used by the utility to coordinate normal maintenance of its distribution facilities, to coordinate its bulk power supplies, or for the safety of maintenance personnel by coordinating regular operations.

3930. - 3849. [Reserved].

3950. Indemnification and Insurance.

- (a) A utility shall indemnify a qualifying facility against all loss, damage, expense, and liability to third persons for injury or death caused by the utility's ownership, construction, operation, maintenance, or failure of its facilities used in the interconnected operations. The utility, at the request of the qualifying facility, shall defend any suit asserting a claim covered by its indemnification. The utility shall pay all costs incurred by the qualifying facility to enforce this indemnification.
- (b) A qualifying facility shall indemnify a utility against all loss, damage, expense, and liability to third persons for injury or death caused by the qualifying facility's ownership, construction, maintenance, or failure of its facilities used in the interconnected operations. The qualifying facility, at the request of the utility, shall defend any suit asserting a claim covered by its indemnification. The qualifying facility shall pay all costs incurred by the utility to enforce this indemnification.
- (c) A utility and a qualifying facility shall hold each other harmless from liability for damages caused to the facilities of the other party by reason of the improper or faulty operation, or non-operation of their facilities.
- (d) A qualifying facility shall obtain liability insurance in an amount a utility determines reasonably adequate to protect the public and the utility against damages caused by the interconnected operations. Prior to interconnection, the qualifying facility shall provide the utility with a current,

valid certificate of insurance naming the utility as a beneficiary.

3951. Discontinuance of Sales or Purchases During System Emergencies, and Notice.

- (a) A qualifying facility shall be required to provide energy or capacity to a utility during a system emergency, as provided in 18 C.F.R. § 292.307(a).
- (b) A qualifying facility, which discontinues sales to or purchases from a utility:
 - (I) Shall make a reasonable effort to notify the utility by telephone prior to discontinuance. If the qualifying facility is unable to give prior telephone notice to the utility, the qualifying facility shall notify the utility by telephone no later than two hours after the termination of the emergency. No utility shall be entitled to telephone notification under this rule unless it provides its current telephone number to the qualifying facility.
 - (II) Shall give written notice to the utility no later than three business days after the termination of the emergency causing the discontinuance. The written notice shall describe the emergency and duration thereof and the reasons for the discontinuance.
- (c) During a system emergency, as defined in 18 C.F.R. § 292.201(b)(4), a utility may discontinue purchases from a qualifying facility as provided in 18 C.F.R. § 292.307(b). A utility, which discontinues purchases from or sales to a qualifying facility
 - (I) Shall make a reasonable effort to notify the qualifying facility by telephone prior to discontinuance. If the utility is unable to give telephone notice to the qualifying facility prior to discontinuance, the utility shall notify the qualifying facility by telephone no later than two hours after the termination of the emergency. No qualifying facility shall be entitled to telephone notification under this rule, unless it provides its current telephone number to the utility.
 - (II) Shall give written notice to the qualifying facility no later than three business days after termination of the emergency causing the discontinuance. The written notice shall describe the emergency and duration thereof, and the reasons for the discontinuance.

3952. Other Discontinuances.

Prior to any other type of temporary discontinuance of purchases or sales, the utility or qualifying facility shall notify the other party as provided

in Rule 3851. However, such notification shall not be required if the parties previously had agreed upon the discontinuance, or if the discontinuance is less than fifteen minutes in duration. When the duration of a discontinuance is fifteen minutes or more, the utility or qualifying facility shall provide the notice required by Rule 3851.

3953. Exemption of Qualifying Facilities From Certain Colorado Laws and Regulations, and Waivers.

- (a) A qualifying facility shall be exempt from Colorado law and regulations as provided in 18 C.F.R. § 292.602(c).
- (b) The exemption provided for in 18 C.F.R. § 292.602(c) shall not divest the Commission of the authority to review contracts for purchases and sales of power and energy under §§ 201 and 210 of PURPA.

3954. Reporting Requirements for Utilities.

- (a) Each utility shall file a written report with the Commission within 30 days after the last working day of March, June, September and December containing the information required by this rule for each qualifying facility, by class, such as co-generation, hydro, wind, solar, biomass/waste, etc. For purposes of this rule a qualifying facility under active discussion or negotiations shall mean a qualifying facility where either preliminary engineering design data has been provided by the qualifying facility to the utility or where contract negotiations between the utility and the qualifying facility have commenced.
- (b) The report shall contain the following general information:
 - (I) The total number of contracts the utility has with qualifying facilities;
 - (II) The total number of KW provided by such contracts;
 - (III) The total MWH provided by such contracts, by class, during the 12 months prior to the date of the report; and
 - (IV) The total annual MWH projected to be provided by qualifying facilities under active discussion or negotiation, by class.
- (c) The report shall contain the following specific information as to each qualifying facility:
 - (I) The name and location of the qualifying facility;
 - (II) The name, address and telephone number of the owner or principal developer of the qualifying facility;
 - (III) The utility's percentage ownership, if any, in the qualifying facility;

- (IV) A description of the technology used or to be used in the qualifying facility, such as, wind turbine, hydro, combustion turbine, topping or bottoming cycle;
 - (V) The fuel source and type of fuel used or to be used in the qualifying facility;
 - (VI) The proposed pattern of operation, if the parties are negotiating a contract, including the size of the qualifying facility by capacity (KW) and by energy (KWH) for each season;
 - (VII) The pattern of operation under an existing contract, the monthly capacity and energy delivered by the qualifying facility, and the monthly payments by the utility for the purchase of capacity and energy;
 - (VIII) The construction schedule of a proposed qualifying facility and the estimated date of commercial operation; and
 - (IX) The status of FERC certification or de-certification of a qualifying facility under contract or active discussion or negotiations.
- (d) If a qualifying facility of two MW or more comes under active discussion or negotiations, the utility shall inform the Commission by letter of the information required by paragraph (c) of this rule within seven days.
 - (e) Within 20 days after the effective date of this rule, each utility, if it has not previously done so, shall file with the Commission the utility's current interconnection requirements, standard contracts and forms, schedule of engineering fees, interconnection fees, meter reading fees, other fees, and insurance requirement.
 - (f) If a utility changes a fee, the utility shall inform the Commission of the amount of the new fee within 10 days after the change.
 - (g) This rule shall not apply to a cooperative electric association, which has voted to exempt itself from regulation under Articles 1 to 7 of Title 40, C.R.S., but to be regulated under Article 9.5 of Title 40, C.R.S.

GLOSSARY OF ACRONYMS

CAAM - Cost Allocation and Assignment Manual
CCR - Colorado Code of Regulations
CFR - Code of Federal Regulations
CPCN - Certificate of Public Convenience and Necessity
CRCP - Colorado Rules of Civil Procedure
C.R.S. - Colorado Revised Statutes
EAO - Energy Assistance Organization
e-mail - Electronic mail
FERC - Federal Energy Regulatory Commission
FDC - Fully Distributed Cost
GAAP - Generally Accepted Accounting Principles
HZ - Hertz (cycles per second)
IEEE - the Institute of Electrical and Electronics Engineers
IPP - Independent Power Producer
KW - KiloWatt (1 KW = 1,000 Watts)
KWh - Kilowatt-hour
MMO - Master Meter Operator
MW - MegaWatt (1 MW = 1,000 KiloWatts)
MWH - MegaWatt-hour
OCC - the Colorado Office of Consumer Counsel
P&P Rules - Rules of Practice and Procedure
PURPA - Public Utility Regulatory Policies Act
QF - Qualifying Facility
RUS - Rural Utilities Service of the United States Department of Agriculture
USOA - Uniform System of Accounts

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