COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-3

PART 3
RULES REGULATING ELECTRIC UTILITIES

3412. Electric Service Low-Income Program.

Electric Service Low-Income Program.

(a) Scope and applicability.

(I) Electric utilities with Colorado retail customers shall provide low-income energy assistance by offering rates, charges, and services that grant a reasonable preference or advantage to residential low-income customers, as permitted by § 40-3-106, C.R.S.

(II) Rule 3412 is applicable to investor-owned electric utilities subject to rate regulation by the Commission.

(b) Definitions. The following definitions apply only in the context of rule 3412. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(I) "Administrative cost" means the utility's direct cost for labor (to include the cost of benefit loadings), materials, and other verifiable expenditures directly related to the administration and operation of the program not to exceed ten percent of the total cost of program credits applied against bills for current usage and pre-existing arrearages or $10,000, whichever amount is greater.

(II) "Affordable percentage of income payment" means the amount of the participant's annual bill deemed affordable under subparagraph 3412(e)(I).

(III) "Arrearage" means the past-due amount appearing, as of the date on which a participant newly enters the program, on the then most recent prior bill rendered to a participant for which they received the benefit of service.

(IV) "Colorado Energy Office" means the Colorado Energy Office created in § 24-38.5-101, C.R.S.

(V) "Eligible low-income customer" means a residential utility customer who meets the household income thresholds pursuant to paragraph 3412(c).

(VI) "Fixed credit" means an annual bill credit established at the beginning of a participant's participation in a program each year delivered as a monthly credit on each participant's bill. The fixed credit is the participant's full annual bill minus the participant's affordable percentage of income payment obligation on the full annual bill.

(VII) "Full annual bill" means the current consumption of a participant billed at standard residential rates. The full annual bill of a participant is comprised of two parts: (1) that portion of the bill that is equal to the affordable percentage of income payment; and, (2) that portion of the bill that exceeds the affordable percentage of income payment.

(VIII) "LEAP" means Low-Income Energy Assistance Program, a county-run, federally-funded, program supervised by the Colorado Department of Human Services, Division of Low-Income Energy Assistance.

(IX) "LEAP participant" means a utility customer who at the time of applying to participate in a program has been determined to be eligible for LEAP benefits by the Department during either: (1) the Department's current six-month (November 1 – April 30) LEAP application period, if that period is open at the time the customer applies for program participation; or, (2) the Department's most recently closed six-month (November 1 – April 30) LEAP application period, if that period is closed at the time the customer applies to participate in the program and the Department's next six-month (November 1 – April 30) LEAP application period has not yet opened, provided, however, that in order to retain status as a LEAP participant under part (2) of this definition, the utility customer must apply to the Department during the Department's next six-month (November 1 – April 30) LEAP benefit application period and be determined eligible for such benefits.

(X) "Non-participant" means a utility customer who is not receiving low-income assistance under rule 3412.

(XI) "Participant" means an eligible low-income residential utility customer who is granted the reasonable preference or advantage through participation in an electric service low-income program.

(XII) "Percentage of Income Payment Plan" (or "PIPP") means a payment plan for participants that does not exceed an affordable percentage of their household income as set forth in subparagraph 3412(e)(I).

(XIII) "Program" means an electric service low-income program approved under rule 3412.

(XIV) "Program credits" means the amount of benefits provided to participants to offset the unaffordable portion of a participant's utility bill and /or dollar amounts credited to participants for arrearage forgiveness.

(XV) "Unaffordable portion" means the amount of the estimated full annual bill that exceeds the affordable percentage of income payment.

(c) Participant eligibility. Eligible participants are limited to those with a household income at or below 185 percent of the current federal poverty level and who otherwise meet the eligibility criteria set forth in rules of the Colorado Department of Human Services adopted pursuant to § 40-8.5-105, C.R.S.

(I) The utility shall obtain household income information from LEAP.

(II) If a participant's household income is $0, the utility may establish a process that verifies income on a more frequent basis.

(III) Program participants shall not be required to make payment on their utility account as a condition of entering into the program.

(d) Enrollment. Utilities shall be responsible for the methods by which participant enrollment in their approved low income program is obtained and sustained, however the utility should engage in enrollment processes that are efficient and attempt to maximize the potential benefits of participation in the low income program by low income customers.

(e) Payment plan.

(I) Participant payments for electric bills rendered to participants shall not exceed an affordable percentage of income payment. The percentage of a participant's household income for which the participant is responsible shall be determined as follows:

(A) for electric accounts for which electricity is the primary heating fuel, participant payments shall be no lower than three percent and not greater than six percent of the participant's household income; and

(B) for electric accounts for which electricity is not the primary heating fuel, participant payments shall be no lower than two percent and not greater than three percent of the participant's household income.

(II) In the event that a primary heating fuel for any particular participant has been identified by LEAP, that determination shall be final.

(III) Notwithstanding the percentage of income limits established in subparagraph 3412(e)(I), a utility may establish minimum monthly payment amounts for participants with household income of $0, provided that:

(A) the participant's minimum payment for an electric heating account shall be no more than $20.00 a month; and

(B) the participant's minimum payment for an electric non-heating account shall be no more than $10.00 a month.

(IV) Full annual bill calculation. The utility shall be responsible for estimating a participant's full annual bill for the purpose of determining the unaffordable portion of the participant's full annual bill delivered as a fixed credit on the participant's monthly billing statement.

(V) Fixed credit benefit. The fixed credit shall be adjusted during a program year in the event that standard residential rates, including commodity or fuel charges change to the extent that the full annual bill at the new rates would differ from the full annual bill upon which the fixed credits are currently based by 25 percent or more.

(VI) Levelized budget billing participation. A utility shall enroll participants in its levelized budget billing program as a condition of participation in the program. Should a participant fail to meet monthly bill obligations and be placed by a utility in its regular delinquent collection cycle, the utility may remove the participant from levelized budget billing in accordance with the utility's levelized budget billing tariff.

(VII) Arrearage credits.

(A) Arrearage credits shall be applied to pre-existing arrearages.

(B) Arrearage credits shall be sufficient to reduce, when combined with participant copayments, if any, the pre-existing arrearages to $0.00 over a period not less than one month and not more than twenty-four months.

(C) Application of an arrearage credit to a participant account may be conditioned by the utility on one or more of the following:

(i) the receipt of regular participant payments toward bills for current usage; or

(ii) the payment of a participant copayment toward the arrearages so long as the participant's copayment total dollar amount does not exceed one percent of gross household income.

(D) Should the participant exit the program prior to the full forgiveness of all pre-existing arrearages, the amount of remaining pre-existing arrearages shall become due in accordance with the utilities tariff filed under rules 3401, 3407, and 3408.

(E) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the program.

(F) A participant may receive arrearage credits under this section even if that participant does not receive a credit toward current bills, if the participant enters into and maintains a levelized budget billing plan.

(VIII) Portability of benefits. A participant may continue to participate without reapplication should the participant change service addresses, but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the levelized budget billing amount to reflect the changed circumstances. A participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.

(IX) Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. Missed, partial or late payments shall not result in the removal of a participant from the program.

(f) Program implementation.

Each utility shall maintain effective terms and conditions in its tariffs on file with the Commission containing its low-income program.

(g) Cost recovery.

(I) Each utility shall include in its low income tariff terms and conditions how costs of the program will be recovered.

(II) Program cost recovery.

(A) Program cost recovery shall be based on a fixed monthly fee.

(B) The maximum impact on residential rates shall be no more than $1.00 per month.

(C) In order to determine monthly rates applicable to rate classes other than residential, program costs shall be allocated to each retail rate based on each rate class's share of the test year revenue requirement established in the utility's last Phase II rate case, or under another reasonable methodology supported by quantifiable information. The monthly rate per this subparagraph to be charged each rate schedule customer shall be clearly stated on a tariff sheet.

(D) Utilities shall separately account for the cumulative program cost recovery and cumulative program and administrative costs to determine if the net of program cost recovery and program and administrative cost are in balance during the program year.

(i) By December 31, 2016, utilities shall determine if the total cumulative cost recovery amount exceeds total cumulative program and administrative costs through September 30, 2016. If at that time total cumulative cost recovery exceeds total cumulative program and administrative costs by 50 percent or more, the over collected amount shall be refunded to all customers in accordance with rule 3410.

(ii) Beginning December 31, 2017 and in each year thereafter, the utility shall file a report with the Commission in the most recent miscellaneous proceeding for annual low-income filings detailing the net difference between program cost recovery and program costs as of September 30 of each year.

(1) Should the net difference of program cost recovery over program costs be greater than 50 percent derived in (ii) above, either

positive or negative, and the utility is not currently at the maximum impact for non-participants, the utility shall file with the Commission an advice letter and tariff pages seeking approval for the rates determined in subparagraph 3412(g)(II)(D) in order to bring the projected recovery in balance for the ensuing 12 month period. The revised charge shall not exceed the maximum impact for non-participants in subparagraph 3412(g)(II)(C).

(III) The following costs are eligible for recovery by a utility as program costs:

(A) program credits or discounts applied against bills for current usage.

(B) program credits applied against pre-existing arrearages.

(C) program administrative costs; and

(D) Commission-sponsored program evaluation costs required under paragraph 3412(k)

(IV) The utility shall apply, as an offset to cost recovery, all program expenses attributable to the program. Program expenses include utility operating costs; changes in the return requirement on cash working capital for carrying arrearages; changes in the cost of credit and collection activities directly related to low-income participants; and changes in uncollectable account costs for these participants.

(V) LEAP grants.

The utility shall apply energy assistance grants provided to the participant by the LEAP program to the dollar value of credits granted to individual program participants.

(A) A utility shall apply any energy assistance benefit granted to the participant by LEAP to that portion of the program participant's full annual bill that exceeds the participant's affordable percentage of income payment.

(B) If the dollar value of the energy assistance grant is greater than the dollar value of the difference between the program participant's full annual bill and the participant's affordable percentage of income payment, the dollar amount by which the energy assistance grant exceeds the difference will be applied:

(i) first, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding; and

(ii) second, to the account of the program participant as a benefit to the participant.

(C) No portion of an energy assistance or LEAP grant provided to a program participant may be applied to the account of a participant other than the participant to whom the energy assistance grant was rendered.

(D) If an all-electric utility's low-income customers do not benefit widely from LEAP grants, the utility shall not apply the dollar value of credits granted to individual LEAP grantees to the dollar value of credits granted to individual program participants.

(h) Other programs. In addition to the utility's low-income program, with Commission approval, a utility may offer other rate relief options to eligible households.

(I) Other programs offered by the utility under rule 3412 must be intended to reach low-income households that do not substantially benefit from the provisions of the low-income program. Such programs may take the form of discount rates, tiered discount rates or other direct bill relief methods where the low-income household benefitting from the program is granted a reasonable preference in tariffed rates assessed to all residential utility customers.

(II) Cost recovery for other programs combined with the Percentage of Income Payment Plan shall not exceed the maximum impact on residential rates described in subparagraph 3412(g)(II)(C).

(i) Energy efficiency and weatherization.

(I) The utility shall provide all program participants with information on energy efficiency programs offered by the utility or other entities and existing weatherization programs offered by the state of Colorado or other entities.

(II) The utility shall provide the Colorado Energy Office with the name and service address of participant households for which annual electricity usage exceeds 10,000 kWh annually.

(j) Stakeholder engagement. A utility shall conduct annual meetings with low-income stakeholders for the purpose of seeking solutions to issues of mutual concern and aligning program practices with the needs of customers and other stakeholders.

(k) Program evaluation. A triennial evaluation of the program provisions under rule 3412 beginning in 2019 shall be undertaken in order to review best practices in similar low-income assistance programs in existence in other regulatory jurisdictions, as well as evaluate operation of each utility's program for effectiveness in achieving optimum support being provided to low income participants. The evaluation shall also recommend modifications if available that improve the delivery of benefits to participants and increase the efficiency and effectiveness of each program as they exist at the point of evaluation.

(I) Procurement of the third-party vendor that will perform the evaluation will be undertaken by the Colorado Energy Office. The CEO shall seek the involvement of interested stakeholders including, but not limited to, Commission staff, all Commission regulated electric and gas utilities, LEAP, the Office of Consumer Counsel, and Energy Outreach Colorado in the design of the requirements regarding study focus and final reporting.

(II) Approval of the third-party vendor shall be the responsibility of the Commission. The CEO shall file with the Commission in the most recent annual report proceeding, a request for

approval of the contract of the vendor selected. The Commission shall review and act on the request within 30 days.

(III) $00.0013 per customer per month shall be set aside by the utility starting in the 2016-2017 program year in order to fund the triennial evaluation of the program evaluation described in paragraph 3412(k).

(IV) The dollars resulting from the $00.0013 charge shall be recovered as a program cost under subparagraph 3412(f)(IV).

(V) The evaluation will be filed by Commission staff in the most recent miscellaneous proceeding for annual low income filings.

(VI) Staff and the CEO will assess the individual utilities' deferred balances set aside for the program evaluation starting in 2019 at the conclusion of the third program year and each three years thereafter and will determine the amounts each utility is to remit to the third party evaluator based on the contractual terms approved by the Commission for the evaluation.

(l) Annual report. No later than December 31, 2016, each utility shall file a report in the most recent miscellaneous proceeding for annual low-income filings using the form available on the Commission's website, based on the seven-month period April 1, 2016 through October 31, 2016, and then on November 30 each of the following years, based on each 12-month period ending October 31, containing the following information:

(I) monthly information on the program including number of participants, amount of benefit disbursement, type of benefit disbursement, LEAP benefits applied to the unaffordable portion of participant's bills, administrative costs, and revenue collection;

(II) the number of applicants for the program;

(III) the number of applicants qualified for the program;

(IV) the number of participants;

(V) the average assistance provided, both mean and median;

(VI) the maximum assistance provided to an individual participant;

(VII) the minimum assistance provided to an individual participant;

(VIII) total cost of the program and the average rate impact on non-participants by rate class, including impact based on typical monthly consumption of both its residential and small business customers;

(IX) the number of participants that had service discontinued as a result of late payment or non-payment, and the amount of uncollectable revenue from participants;

(X) an estimate of utility savings as a result of the implementation of the program (e.g., reduction in trips related to discontinuance of service, reduction in uncollectable revenue, etc.);

(XI) the average monthly and annual total electric consumption in PIPP participants' homes;

(XII) the average monthly and annual total electric consumption in the utility's residential customer's homes;

(XIII) the number of program participants referred to the weatherization program;

(XIV) a description of the ways in which the program is being integrated with existing energy efficiency of DSM programs offered by the utility;

(XV) a description of the ways in which the program is being integrated with existing weatherization programs offered by the state of Colorado;

(XVI) a description of program outreach strategies and metrics that illustrate the effectiveness of each outreach strategy;

(XVII) the number of participants at the start of the program year that the utility removed for any reason, the number of potential participants rejected because of the existence of a cap on the program, the period of arrearage time from date participants became eligible and were granted arrearage forgiveness, and the number of participants who came back as eligible participants in the program year after being eligible in a prior program year and were provided arrearage credits in the program year; and

(XVIII) a narrative summary of the utility's recommended program modifications based on report findings.